



## E. SUPERVISORY INTERVENTION

FLAW IDENTIFICATION	FLAW NATURE		DESCRIPTION OF CORRECTIVE MEASURES	SUPERVISORY MEASURES			
	D	I		AOP	SD	R	OSM
<b>CONTROL DUTY</b>							
1. Inexistence of a risk-based management model and of a separate document with clearly identified and assessed MLTF risks, means and procedures of control as well as the monitoring mode thereof.	X		The institution should comply with the points established in Article 4(3 and 5) of Notice No. 5/2013 of the Banco de Portugal, namely by carrying out preparatory work regarding the evaluation of the various MLTF risk factors and reflecting them in documents or written records.	X	X		
2. The extension of the verification procedures and diligence measures are not adapted to the MLTF risk specifically associated with several customers/transactions/turnover segments.	X			X			
3. It was found that the board of directors showed a low sensibility regarding this issue. The board did not promote a genuine institutional culture of MLTF prevention within the institution.	X		The Board of Directors of the institution shall actively promote an effective institutional culture of MLTF prevention, fully assuming the responsibilities provided in Article 42 of Notice No. 5/2013 of the Banco de Portugal and in Article 9 of Notice No. 5/2008 of the Banco de Portugal.	X	X		
4. The procedure present in the internal regulations regarding the suspicious operations reporting decision, as well as in the case of possible refusal regarding the identification of a beneficial owner in the context of an account opening process, does not allow to properly safeguard the autonomy with which the function of compliance is exercised.	X		Under the terms of Article 43(1) and 51 of Notice No. 5/2013 of the Banco de Portugal and in order to properly safeguard the autonomy with which the function of compliance is exercised, the institution shall: (i) define and apply effectively a procedure regarding the analysis and reporting decision of suspicious operations;	X	X		



<p>5. The procedure present in the internal regulations regarding the decision to report suspicious operations to the authorities is not applied in practice. There is an informal circuit for this purpose. The informality associated with this procedure means that there is no record of decision-making or of the respective players as well as the date, therefore, increasing the lack of clarity regarding the reporting lines actually used.</p>	X		<p>(ii) revise the internal regulations with regards to cases of possible refusal to identify a beneficial owner under an account opening process.</p>				
<p>6. There are procedures that are not in writing, particularly regarding: i. the existence of alternate for the compliance; ii. the need to request a statement regarding the origin and the destination of funds for cash deposits and cash withdrawals over 12,500€, as mentioned in the Internal Audit Department report; iii. the need to identify depositors in third parties accounts, in compliance with Article 22 of Notice No. 5/2013 of the Banco de Portugal.</p>	X		<p>In compliance with Article 4(5) and with Article 41(1)b, both belonging to Notice No. 5/2013 of the Banco de Portugal, the institution shall put write its internal regulations regarding the MLTF risk management, particularly as regards (i) the existence of alternate for the compliance, (ii) the determination of the cases in which it is necessary to request a statement regarding the origin and the destination of funds, as well as (iii) the need to identify the depositors in third parties accounts.</p>	X	X		
<p>7. The compliance function does not have the necessary powers, means and resources to meet the needs inherent to the objective and autonomous exercise of its functional competences, namely regarding the MLTF prevention.</p>	X		<p>In accordance with Article 43(3),b of Notice No. 5/2013 of the Banco de Portugal, the institution shall provide the compliance function with the necessary powers, means and resources to meet the needs inherent to the objective and autonomous exercise of its functional competences, namely regarding the MLTF prevention.</p>	X	X		
<p>8. To date, no effectiveness tests have been carried out nor has been determined by the board of directors which entity is responsible for such tests. Despite the fact that punctual internal audit actions were carried out on this subject, they were not supposed to comply with Article 44 of Notice No. 5/2013.</p>	X		<p>The institution shall determine the entity responsible for the execution of the effectiveness tests and ensure these tests cover all the segments of the activity by graduating the intensity, coverage and frequency according to the AML risk degree associated with each business area, as requested in Article 44 of Notice No. 5/2013 of the Banco de Portugal.</p>	X	X		
<p>9. Nevertheless, the Internal Audit Department responsible has access to all information, there are no automated routines regarding MLTF.</p>		X	<p>The Internal Audit Department shall create automated routines in order to monitor regularly the internal control system regarding MLTF prevention.</p>			X	



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10. In the context of the RPB, some deficiencies that should have been reported to BdP – and were not – have been identified during the internal audit actions.	X		As requested in paragraph 10 of the Annex of Notice No. 9/2012 of the Banco de Portugal, the institution shall report all the deficiencies encountered regarding MLTF prevention to the Banco de Portugal, including the ones identified during the internal audit.		X		
11. Although KMPG did consulting work in 2014 and 2016 to support the opinion of the Board of Directors and of the Audit Board for RPB purposes, no periodic external audits regarding this issue are planned.		X	The MLTF preventive procedures shall be subject to a periodic external audit.				X
12. The manual nature of the filtering procedures, combined with the various options allowed by websites, makes the result too dependent on the employee responsible for the account opening.		X	Under Article 37(1 and 5)b of Notice No. 5/2013 of the Banco de Portugal, as well as Article 41(1)e of Notice No. 5/2013 of the Banco de Portugal, <i>ex vi</i> Article 6 of Law 11/2002, the institution shall adopt the necessary procedures for proper quality detection – originating or supervening – of politically exposed persons, public and political officeholders or sanctioned, not confined to lists consulting, but performing additional diligences, as well as scanning the customer database installed next to the international lists or, still, any other diligence that deems appropriate for the same purpose.		X		
13. Nonexistent procedures to verify the existence of PEP, other public and political officeholders or sanctioned during the business relationship.	X			X			
14. There are no transaction counterparty filtering procedures.	X		Under Article 41(1)c of Notice No. 5/2013 of the Banco de Portugal, <i>ex vi</i> Article 6 of Law 11/2002, the institution shall proceed to the verification and filtering of the counterparties of all types of transactions, against the sanctioned lists.	X	X		
15. The procedure implemented to detect entities listed in circular letters disclosed by BdP does not allow the detection of such identities during the establishment of the business relationship.	X		In compliance with Article 39(1)c of Notice No. 5/2013 of the Banco de Portugal, the institution shall implement procedures that allow the detection of entities listed in the circular letters disclosed by the Banco de Portugal during the establishment of the business relationship, not just proceed to the verification of its customer database during the issuance of the lists.	X	X		



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<p>16. There is no computerized monitoring tool that takes into account risk indicators and suspicion factors to detect potentially suspicious operations and issue the corresponding warning indicators.</p>	<p>X</p>		<p>In accordance with Article 41(1)e of Notice No. 5/2013 of the Banco de Portugal, the institution shall implement a computerized monitoring tool that takes into account risk indicators and suspicion factors to detect potentially suspicious operations and issue the corresponding warning indicators.</p>	<p>X</p>	<p>X</p>		
<p>17. The risk degree assigned to customers at the time of inspection had no effect on the alteration of the monitoring procedures.</p>	<p>X</p>		<p>In accordance with Article 9(1)d and Article 10 of Law 25/2008, the institution shall adapt the nature and extent of the monitoring procedures as well as the diligence measures to the risk associated with its customers.</p>		<p>X</p>		
<p>18. Some internal regulations relevant to the MLTF prevention, namely the “Compliance Manual” and the “Policy on the Prevention and Detection of Money Laundering and Terrorist Financing” are outdated in comparison with the latest legislative developments, particularly the Notice No. 5/2013 of the Banco de Portugal.</p>	<p>X</p>		<p>In the light of recent legislative developments, particularly the Notice No. 5/2013 of the Banco de Portugal, the institution shall update the “Compliance Manual” and the “Policy on the Prevention and Detection of Money Laundering and Terrorist Financing”, as well as other internal regulations relevant to the MLTF prevention in order to fully comply with the Article 41 e 55 of the same Notice.</p>		<p>X</p>		
<p>19. The procedure established by BPA-E for online and face-to-face account openings regarding “Atlântico Angola Customers” is in breach of Article 18(6) of Notice No. 5/2013 of the Banco de Portugal, since it allows the confirmation of the identifying elements necessary for the account opening by a non-qualified financial institution (ex-BPA, S.A.).</p>	<p>X</p>		<p>In accordance with Article 18(6) of Notice No. 5/2013 of the Banco de Portugal, the institution shall (i) cease the practice of opening an account through the confirmation of identifying elements by a non-qualified financial institution, as well as (ii) amend its internal regulations.</p>		<p>X</p>		



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<p>20. The procedure provided for updating customers' elements does not include provisions for the periodic updating of identification elements in view of the customers' MLTF risk. This does not fully comply with the requirements of Article 33 of Notice No. 5/2013 of the Banco de Portugal.</p>	X		<p>In order to comply with Article 33 of Notice No. 5/2013 of the Banco de Portugal, the institution shall implement procedures to update the information elements related to its customers in accordance with the evidenced MLTF risk, defining a periodicity for the update in a order inversely proportional to the degree of risk posed, as well as any other measures which it deems appropriate for this purpose, adjusting its internal regulations accordingly.</p>		X		
<p>21. The institution is not equipped with sufficient means to refrain, in real time, from carrying out any potentially suspicious operation, given that it does not have a tool to identify these operations and the manual procedure, with all its limitations, does not allow effective control in realtime.</p>	X		<p>The institution shall have appropriate procedures and/or specific mechanisms in place to assess the degree of suspicion of a transaction, prior to its completion, in order to be able to refrain, in real time, from performing a suspicious transaction, fully complying with Article 17 of Law 25/2008 and Article 52 of Notice No. 5/2013 of the Banco de Portugal.</p>		X		
<p>22. There is no record that can accommodate possible refusal cases.</p>	X		<p>The institution shall ensure the systematic recording of situations in which the refusal duty has been exercised, including objective information on the concrete reasons that justify the performance of this duty, under Article 48(4 and 5) of Notice No. 5/2013 of the Banco de Portugal.</p>		X		
<p>23. There is no evidence of the full implementation of the procedures laid down in the internal regulations, in particular those concerning item d, point 1.4.2.4 (related to continuous monitoring and enhanced diligence regarding the business relationship with politically exposed persons), 2.4.8. (related to the quarterly review of the business relationships by the customer manager, under the supervision of the respective director) and 2.4.10 (related to the elaboration of a monthly report on the activity of accounts owned by politically exposed persons by the compliance).</p>	X		<p>In compliance with Article 21 of Law 25/2008 and Article 41(1)a of Notice No. 5/2013 of the Banco de Portugal, the institution shall apply the procedures laid down in "Policy on the Prevention and Detection of Money Laundering and Terrorist Financing", namely regarding item d, point 1.4.2.4., 2.4.8 and 2.4.10.</p>		X		



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IDENTIFICATION DUTY								
1. The institution has not proceeded, in some cases, to the acquisition of supporting documents, namely TIN and address, of natural persons.		X	The institution shall strengthen its control mechanisms in order to minimize operational errors concerning the collection of all customers identification elements required for the establishment of a business relationship, including evidence regarding address and tax identification number of natural persons as well as the address of representatives of legal persons customers. In addition, it shall act with a high degree of care during the verification of the suitability and sufficiency of the instruments that grant the powers of representation and transactions.					
2. Shortcomings in obtaining evidence regarding representatives of legal persons customers, namely their address.		X					X	
3. Shortcomings regarding a special duty of care related to the verification of the suitability and sufficiency of the instruments which grant the powers of representation and the transactions of some customers, provided in Article 13(c) of Notice No. 5/2013 of the Banco de Portugal.		X						
4. In some bank account opening processes documentation, the employees of the institution were not properly identified nor did the documentation have the respective date.	X		The institution shall ensure that employees who open and update bank accounts indicate in the supporting internal records an entry that clearly identifies them as well as the respective date, in order to fully comply with the provisions of Article 15 of Notice No. 5/2013 of the Banco de Portugal.			X		
5. Some situations in which accounts were unblocked and improperly handled were detected, without the institution having all the required identification elements.	X		The institution shall ensure rigorous compliance with Article 8(3) of Law 25/2008 and Article 16(3) of Notice No. 5/2013 of the Banco de Portugal, in particular by ensuring that accounts in which the account opening process is not complete are not unduly unblocked and handled.			X		
DILIGENCE DUTY								
1. In many cases, the institution has not requested information on the intended purpose and nature of the business relationship.	X		The institution shall implement mechanisms that allow it to know the purpose and nature intended with the establishment of the business relationship, in compliance with Article 30 of Notice No. 5/2013 of the Banco de Portugal.	X		X		



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<p>2. In most of the analyzed cases, the institution did not request information concerning the main elements that characterize its customers' effective activity nor did it provide proof of them.</p>	X		<p>The institution shall implement mechanisms that allow it to collect information on the main elements that characterize the effective activity of its customers, proving it through documentation, a measure or diligence considered to be appropriate or sufficient in view of the identified concrete risk, in compliance with the Article 32 of Notice No. 5/2013 of the Banco de Portugal.</p>	X	X		
<p>3. Requesting information on the origin/destination of funds is currently pro-forma as it lacks critical analysis.</p>	X		<p>The institution shall carry out a critical analysis of the collected statements regarding the origin/destination of the funds as well as collect their evidence, in order to fully comply with the provisions of Article 31 of Notice No. 5/2013 of the Banco de Portugal.</p>		X		
<p>4. The cases of the customers <u>BERKELEY - MANAGEMENT AND SERVICES, S.A.</u> and <u>GLOBAL ATLANTIC SARL</u> were noted. In these cases, the information on their management bodies present in the transactional system was outdated, causing the risk of the accounts being handled by an unauthorized person.</p>		X	<p>The institution shall ensure that the information available regarding the customer, namely on the authorized persons to handle the accounts, is reflected in the transactional system in order to safeguard possible situations that may lead to the risk of the accounts being handled by unauthorized persons.</p>			X	
<p>5. Several operations with high-risk characteristics were detected, one concerning a PEP customer, that were not in accordance with the available knowledge of the respective customers and on which no diligences were carried out with regard to the misleading of any suspicious situations.</p>	X		<p>In accordance with Article 9(1)d of Law 25/2008 of June 5, the institution shall maintain a continuous follow-up of the established business relationships to ensure that the transactions made by the customers are consistent with the knowledge of them, covering all the available information and writing the implemented diligences.</p>	X	X		
<p>6. PEP customers, for whom some diligences were carried out, were identified. However, no further diligence measures were applied regarding the monitoring of their operations.</p>	X		<p>In compliance with the provisions of Article 12 of Law 25/2008, the institution shall adopt enhanced diligence procedures in the course of the business relationship with customers and operations that may reveal a higher risk of money laundering or terrorist financing, namely concerning politically exposed persons, with regard to enhanced monitoring of the practiced operations.</p>	X	X		



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<p>7. There are several shortcomings regarding the gathering of information for the purpose of establishing correspondent relationships, as well as the updating and follow-up of the information, presenting non-compliance with the diligence implementation.</p>	<p>X</p>		<p>In compliance with the provisions of Article 26 of Law 25/2008 and Article 38 of Notice No. 5/2013 of the Banco de Portugal, the institution shall ensure that, while establishing banking correspondent relationships, it collects information deemed sufficient to satisfy the legal requirements set forth in 1(1) of that Article. The institution shall also ensure that it will keep a close eye on those business relationships, in particular by subjecting them to monitoring as well as updating the respective information elements.</p>	<p>X</p>	<p>X</p>		
<b>EXAMINATION DUTY</b>							
<p>1. Examinations that were not carried out "with particular care and attention", as required by Article 15 of Law 25/2008 of June 5, were found, due to serious shortcomings regarding the information considered for the examination, the quality of the examination basic procedures and the analysis quality.</p>	<p>X</p>		<p>The institution shall, in accordance with Article 15 of Law 25/2008 and Article 50 of Notice No. 5/2013 of the Banco de Portugal, examine with special care and attention any conduct, activity or operation in which characterizing elements make it likely to be related to money laundering or financing of terrorism and shall, for that purpose, endeavor to collect relevant information, confront any available information as well as to write expressly and clearly the reasons for the decision to file or to report, indicating the date and those involved in the decision-making process.</p>	<p>X</p>	<p>X</p>		
<p>2. The institution does not have any register reflecting the existence of a process for the analysis and examination of operations. It does not allow (i) proper management of the whole process, namely the knowledge of the decision-makers of possible reports, (ii) an assessment of the reporting deadlines nor (ii) that the information processed can be used by the institution as part of the analysis/KYC of its customers.</p>		<p>X</p>	<p>The institution shall be provided with tools for a real management of the procedures relating to the examination duty, in particular as regards the control of deadlines and possible workflows during the analysis, approval or reporting, therefore, allowing the acknowledge of the content results of the examinations performed, required by Article 50(2) of Notice No. 5/2013 of the Banco de Portugal.</p>			<p>X</p>	



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<b>REPORTING DUTY</b>							
1. There is no clear evidence of sending reports to the authorities, since the reports sent to the Prosecutor-General's Office have not been preserved, in breach of Article 51(4) of Notice No. 5/2013 of the Banco de Portugal.	X		In order to fully comply with Article 51(4) of Notice No. 5/2013 of the Banco de Portugal, the institution shall keep copies or records of suspicious operations reports made to the authorities for a period of at least five years, enabling their verification, as well as understanding their content, particular as regards the elements referred to in Article 51(1)d of Notice No. 5/2013 of the Banco de Portugal.	X	X		
2. The reports present serious deficiencies in their content, compromising the own perception and understanding of the operations and failing to comply with the requirements of Article 51(1)d of Notice No. 5/2013 of the Banco de Portugal.	X		The institution shall include in the suspicious operations reports to the authorities, information as complete as possible on the reported operations, including the elements described in the Article 51(1)d of Notice No. 5/2013 of the Banco de Portugal, making the reporting clearer and more accurate as well as in accordance with the legal requirements regarding this matter.	X	X		
3. A customer case regarding a suspicion raised with BPA was found. However, there was no reporting of this case.	X		In accordance with Article 16 of Law 25/2008, the institution shall inform the competent authorities whenever it knows, suspects or has sufficient reason to suspect that has taken place, is ongoing or was attempted an operation that could have constituted the practice of MLTF crime.	X	X		
<b>COLLABORATION DUTY</b>							
1. The existing registration requests for collaboration are based on manual procedures, which do not allow proper management and follow-up, particularly in terms of response times monitoring.	X		Pursuant to Article 53(1) of Notice No. 5/2013 of the Banco de Portugal, the institution shall adopt a system for the filing of information relating to its activity, which enables it to fulfill its collaboration duty at all times, by mitigating any delay in responding to the competent authorities.		X		
<b>ABSTENTION DUTY</b>							



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SECURITY DUTY							
REFUSAL DUTY							
PRESERVATION DUTY							
1. The absence of a computer tool to support the digital preservation of documentation implies that the archiving of information eminently goes through manual procedures which create very time-consuming and highly fallible processes as (i) the combination of the documentation of players into multiple accounts and (ii) the compilation of all operations supporting documents regarding a customer.	X		In compliance with Article 14(2) of Law 25/2008 and Article 49(1)b of Notice No. 5/2013 of the Banco de Portugal, the institution shall save copies or electronic data extracted from all documents submitted by its customers, as well as the record and supporting evidence of the operations, under conditions which allow its easy location and immediate access to them, in particular by implementing a document management tool or by adopting any other mechanism adequate.		X		
2. No supporting documents regarding the operations of the following customers: PEDRO GABRIEL VIANA SOUSA MORAES, ERNESTO VICENTE MACEDO DA COSTA e RUI CHAGAS FIGUEIREDO FARO were found.	X						
TRAINING DUTY							
1. There is no formally defined MLTF prevention training plan nor any schedule or planning of training actions to be implemented.		X	The institution shall establish a training plan with the respective schedule regarding the prevention of MLTF.			X	
2. The scope of the training actions is not adequate given that more than half of the relevant employees have not received any training regarding MLTF prevention in the last two and a half years.	X		In compliance with Article 46(1) of Notice No. 5/2013 of the Banco de Portugal, the institution shall provide training to all its relevant employees ensuring full, permanent and updated knowledge regarding MLTF prevention.		X		
3. The training contents proved to have a lack of detail, given that they essentially covered introductory concepts and examples regarding AML.	X						
4. There are no mechanisms to assess the effectiveness of internal training actions.	X		In accordance with Article 46(4) of Notice No. 5/2013 of the Banco de Portugal, the institution shall put in place mechanisms to assess the effectiveness of its training policy.		X		



ABROAD SUBSIDIARIES AND BRANCHES							
1. Although some controls regarding the Branch of Namibia are in place, it is understood that the situations identified at the BPA-E level will necessarily be reflected in the controls carried out on that unit.	X		The institution shall ensure the effectiveness of MLTF prevention mechanisms implemented in its branch of Namibia, in order to ensure that these mechanisms comply with those demanded by Article 29 of Law 25/2008.		X		
OTHER ASPECTS							
The degree of compliance between the observed reality during the inspection and the 2015 QAA was considered to be Medium-Low (30% compliance).	X		The institution shall review the information to be provided in the next report of the QAA, legally required by Notice 46/2012 of the Banco de Portugal, including the Control, Diligence, Examination, Reporting and Training duties, in order to ensure the accuracy of the information provided.		X		

**D**

DEFAULT

**I**

IMPROVEMENT

**AOP**

ADMINISTRATIVE  
OFFENCE PROCEEDING

**SD**

SPECIFIC  
DETERMINATION

**R**

RECOMMENDATION

**OSM**

OTHER SUPERVISORY  
MEASURE



## F. SUMMARY AND RATINGS

### F.1 OVERALL CONCLUSIONS

	Y/N/NA
1. Does the institution understand the nature and level of its MLTF risks by identifying them and assessing their degrees of likelihood and impact?	N
2. Does the institution develop and apply Anti-Money Laundering/Terrorism Financing policies (including group-wide), means, procedures and control to adequately and proportionately prevent/mitigate the identified and assessed risks?	N
3. Does the institution have adequate tools/computer systems for the registration and control of customers as well as of operations for monitoring, detecting suspicious operations and issuing the corresponding warning indicators?	N
4. Does the institution continually evaluate the quality of its internal control system for MLTF prevention, testing its suitability and effectiveness?	N
5. Has the institution prepared a record or written document describing its internal MLTF risk management policies in which are detailed (i) the risks inherent to the institution's specific activity and how it has identified and evaluated them, (ii) the means and control procedures in place as well as their appropriateness in order to mitigate existing risks and (iii) how does the institution monitor the adequacy and effectiveness of the controls implemented?	N
6. The compliance function regarding MLTF prevention is adequately ensured, considering (i) the powers and level of competence/experience/autonomy of the RCMLTF and (ii) the degree of sufficiency and adequacy of human, finance, material and technical resources related to it?	N
7. Is the board of directors of the institution aware of and actively involved in defining/approving strategies and policies as well as in assessing the effectiveness of the internal control system regarding the prevention of MLTF?	N
8. Do the relevant staff members at the institution have adequate knowledge of MLTF prevention?	N
9. Does the institution properly apply the identification procedures concerning customers/representatives/beneficial owners laid down in the legal and regulatory framework?	Y
10. Does the institution properly apply the diligence procedures of customers/representatives/beneficial owners laid down in the legal and regulatory framework?	N
11. Does the institution comply with the obligation to update the identifying elements/supporting evidence/other information?	Y
12. Does the institution have the means or procedures to track politically exposed persons, the "sanctioned entities/persons" and operations related to the risk countries/jurisdictions identified by the FATF?	N
13. Does the institution comply with its legal and regulatory obligations laid down in the legal and regulatory framework regarding bank correspondence relationships?	N
14. Does the institution comply with its legal and regulatory obligations laid down in the legal and regulatory framework regarding the preservation of documents?	Y
15. Does the institution examine conducts, activities or operations that may be related to MLTF crimes?	N
16. Does the institution comply with its legal and regulatory obligations laid down in the legal and regulatory framework regarding suspicious operations reporting?	N