

## LEGAL ALERT

# ICT SECURITY AND GOVERNANCE AND SUBCONTRACTING TO CLOUD COMPUTING SERVICE PROVIDERS

## REGULATORY RULE NO. 6/2022-R OF 7 JUNE

The [Insurance and Pension Funds Supervisory Authority \(ASF\) Regulatory Rule no. 6/2022-R, of June 7](#) (“**NR 6/2022-R**”), which entered into force on July 30, 2022, lays down the general requirements and principles that should govern the development of information and communication technologies (“**ICT**”) governance and security mechanisms and the outsourcing to providers of cloud computing services by insurance and reinsurance companies on an individual basis and at group level.

NR 6/2022-R applies to:

- Insurance and reinsurance companies with their registered office in Portugal and branches of foreign insurance and reinsurance companies operating in Portugal;
- Insurance or reinsurance groups, where the ASF is the group supervisor; and
- Sub-groups whose insurance or reinsurance parent company, top insurance holding company or top-mixed financial holding company at national level, is subject to group supervision by the ASF.

This Regulatory Rule mainly concerns, among other aspects:

- Defining the general requirements for ICT governance, in particular with regard to the **responsibilities of the board of directors** and the obligation for insurance and reinsurance companies to (i) have an **ICT strategy**, formalised in a written document, (ii) integrate ICT

and security risks into the company's **overall risk management system** and (iii) to carry out **periodic audits**;

- Establishing information security requirements, with a need for (i) an **information security policy** formalised in a written document and (ii) an **information security role**;
- Regulating the obligations which insurance and reinsurance companies must fulfil in relation to the **operational management and monitoring of ICT security**;
- Setting out requirements for business continuity management in the framework of **ICT continuity policy**;
- Defining general requirements for the **governance of subcontracting cloud computing services**; and
- Setting out the pre-conditions for entering into an **agreement on subcontracting cloud computing services**, in particular the need for **prior communication to the ASF** in case of subcontracting key or important functions, and for the regulation of the rights and obligations which must be clearly identified and specified in that written agreement (such as access and audit rights).

NR 6/2022-R is a complement to the general requirements on the system of governance set out in [Regulatory Rule no. 4/2022-R, of May 31](#), and within the framework of the objectives pursued by the ASF in strengthening the supervisory model for the system of governance for insurance and reinsurance companies, with the aim of ensuring they are adequately prepared to manage the risks associated with ICT and related security, as well as providing adequate protection to policyholders, the insured and beneficiaries.

Even though NR 6/2022-R entered into force on July 30, 2022, in particular, with regard to subcontracting to cloud computing service providers, it stipulates that insurance and reinsurance companies should have reviewed and amended the provisions of their agreements on subcontracting key operational functions or activities by **December 31, 2022**. This deadline could be extended upon request to the ASF.

NR 6/2022-R results from [ASF Public Consultation process 12/2021](#), the conclusions of which can be consulted [here](#), and its drafting took into account the European Insurance and Occupational Pensions Authority (EIOPA) guidelines [on ICT security and governance](#) and with regard to subcontracting to cloud computing service providers.

The [insurance, reinsurance, and pension funds team](#) at Morais Leitão is available to clarify any question about this new framework.

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