

# Banking Regulation Portugal

The banking industry and the regulation that surrounds it has obviously been subject to much scrutiny over the years since the financial crisis began. To find out how it is faring now and what legal challenges still remain, *Lawyer Monthly* speaks to Filipe Lowndes Marques, partner at Morais Leitão, Galvão Teles, Soares da Silva in Lisbon.

## How has banking regulation in your jurisdiction changed following the global economic crisis?

Banking regulation has tightened in Portugal since the global economic crisis, as in all other EU states, with regulators perhaps "over-correcting" to compensate for oversights in supervision before the crisis. This has meant that banks are facing regulators that, because of excess flexibility in the past, now show absolutely no flexibility at all – which creates additional difficulties to a banking sector that already has problems.

Adding to this "too-strict" application of the rules by regulators, several Portuguese banks have been the beneficiaries of bail-out funds, which have come with stringent rules and obligations attached, and which have further limited the scope of activities of the banks.

That being said, green shoots of recovery seem to finally be appearing in Portugal, and we are optimistic that the Portuguese banking sector – that has had problems more because of limited access to external funding than because of their own misdeeds – will re-assume their essential role in Portugal's economy.

## What are your opinions on the new trend of large corporations creating banks in order to benefit from favorable conditions granted by ECB? What are the problems and challenges raised by this?

The trend of large corporations creating banks to benefit from ECB conditions has not yet reached Portugal. Historically "corporate banks" in Portugal were created mostly by construction companies but with the problems in the Portuguese construction sector, these have wound down their activity and there are no rumours in the market of this type of institution making a re-appearance.

## In your opinion, how should banking regulation be altered in order to encourage further investment?

Banking regulation has, dare one say it, perhaps gone a little too far since the crisis. While there was undoubtedly the need for more stringent rules in certain areas, it may be that the intended medicine may do more harm than good. For example, the liquidity requirements and stable funding ratios, if followed through as currently envisaged, will make it less likely that banks will want to grant long term loans. This will increase volatility as companies will not have long term assured funding and will subject those companies to short term market fluctuations that could be avoided.

Clearly the route must be to seek a more proactive supervision and regulation that will ensure that banks do not repeat the mistakes of the past, but without unnecessarily limiting the activities that it makes sense that they should carry out.

## Please give me an overview of yourself, your firm and your involvement in Banking Regulation.

Morais Leitão, Galvão Teles Soares da Silva (MLGTS) is a full service law firm which covers, in the field of banking and finance, all areas of the law, including banking regulation and supervision, structured finance, private equity, investment funds, derivatives, project finance/public-private partnerships, securitisation and covered bonds. Owing to its long experience in the main areas of activity of the banking and finance sector, the firm maintains a leading and innovative position, and assists the most prestigious Portuguese and foreign banks in various types of transactions. MLGTS is the sole member firm for Portugal of Lex Mundi, the leading international association of independent law firms, and also has associated offices in Angola and Mozambique.

I am a partner in MLGTS's banking and finance practice group, and am qualified to practice in Portugal and England & Wales. My practice covers most areas of banking law, with a particular emphasis on project finance, where I have worked on several types of projects, including bridges, motorways, power plants, wind farms, football stadia, LNG terminals and natural gas concessions. I have also been active in the field of capital markets, having advised on several securitisation transactions (including the first securitisation transaction under the new Portuguese securitisation law and the first synthetic securitisation in Portugal) and worked on several IPOs of state owned companies. I am currently also the worldwide chair emeritus of Lex Mundi's Banking, Finance and Regulation Practice Group. **LM**

## Contact:



**FILIFE LOWNDES MARQUES**

Partner

Morais Leitão, Galvão Teles, Soares da Silva

Sociedade de Advogados, R.L.

Rua Castilho, 165 – 1070-050 Lisboa

Tel: +351 213 826 601

Fax: +351 213 826 629

Email: flmarques@mlgts.pt

Website: www.mlgts.pt

MORAIS LEITÃO  
GALVÃO TELES  
SOARES DA SILVA