

MANDATORY REPORTING OF REAL ESTATE TRANSACTIONS TO IMPIC



NEWS,
LATEST,
CURRENT TOPICS

“ENTITIES OR PROFESSIONALS DEDICATED TO THE ACTIVITY OF REAL ESTATE MEDIATION MUST APPLY FOR A LICENSE FROM IMPIC (AMI LICENSE).”

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Portugal continues to attract significant foreign investment in the real estate sector, so understanding the legal and compliance obligations under Portuguese law is key. An area of increasing scrutiny is related to mandatory communications under Law No. 83/2017, of 18th of August (Law on Combatting Money Laundering and Terrorist Financing – LPCBC/TF Law), in its current wording, and Regulation No. 603/2021, of 8th of June, in particular the reporting duties imposed on real estate professionals and entities within the scope of a set of essential and preventive duties applicable to these entities.

We will highlight the obligations regarding the communication of real estate transactions.

MANDATORY DUTY OF COMMUNICATION

All entities, regardless of their financial or non-financial nature, that carry out real estate activities in Portugal must communicate to IMPIC – Institute of Public Markets, Real Estate and Construction (IMPIC), the start of their own real estate activity, as well as appoint a Regulatory Compliance Officer (RCN).

Entities or professionals dedicated to the activity of real estate mediation must apply for a License from IMPIC (AMI License). The law establishes two requirements for access to the activity, on which the granting of a license depends:

1. Have corporate reputability.
2. Hold a civil liability insurance, or financial guarantee or equivalent instrument that replaces it.

Licenses are issued if all legal requirements are met, and they are valid for an unlimited period of time, without prejudice to the expiration of licenses due to non-compliance with the required requirements, and their suspension or cancellation. It should be noted that annual verification of the requirements for maintaining the validity of the registration is required.

In terms of real estate transactions, these entities are required to report the details of: i) any real estate transaction – including the purchase and sale of residential, commercial or rural properties; ii) any lease contract – in which the monthly rent is equal to or greater than € 2,500.00.

This duty is mandatory and must be fulfilled through submission on the IMPIC digital platform, and the following information is required for each transaction: i) Identification of all parties involved; ii) Type of transaction; iii) Detailed description of the property; iv) Transaction value or monthly rent amount; v) Method of payment; and vi) Date of execution of the contract and any intermediaries and brokers.



REPORTING DEADLINES

The communication of all elements of each real estate transaction and reportable lease agreement must be done digitally through the official IMPIC portal. The submission must follow a quarterly schedule:

- Quarter 1 - until June 30th
- Quarter 2 - until September 30th
- Quarter 3 - until December 31st
- Quarter 4 - until March 31st (next year)

Proposals may be submitted at any time during the quarter but must be finalized no later than three months after the end of the quarter in which the contract was signed.

EXEMPT OPERATIONS:

Not all real estate events fall within the scope of mandatory reporting, since certain transactions are exempt from it, due to a lower associated legal risk of money laundering, namely:

“IN TERMS OF REAL ESTATE TRANSACTIONS, THESE ENTITIES ARE REQUIRED TO REPORT THE DETAILS OF: I) ANY REAL ESTATE TRANSACTION - INCLUDING THE PURCHASE AND SALE OF RESIDENTIAL, COMMERCIAL OR RURAL PROPERTIES; II) ANY LEASE CONTRACT - IN WHICH THE MONTHLY RENT IS EQUAL TO OR GREATER THAN € 2,500.00.”

- i) Expropriations of public utility; ii) Judicial sales in enforcement or insolvency proceedings; iii) Gifts of real estate; iv) Promissory contracts; v) Lease contracts where the rent is less than € 2,500.00/month, if entered into after March 26, 2019; vi) Lease contracts for real estate where the monthly rent is equal to or greater than € 2,500.00/month signed until June 30, 2019; vii) Contract for the transfer of use of a store in a commercial complex; viii) Contract for the assignment of shares of a commercial company.

DEALING WITH INCOMPLETE INFORMATION OF THE PARTIES TO THE TRANSACTION

Real estate intermediaries are legally obliged to request all the necessary information from the parties involved in a transaction to comply with the obligations established in the LPCBC/TF Law and Regulation No. 603/2021, of 8th June.

In turn, the parties are legally obliged to provide this information. As the main objective of this legal framework is to combat money laundering and terrorist financing, any refusal to provide the requested information could potentially indicate involvement in illicit activities. Therefore, the intermediary may be required to report the incident to the competent authorities and, if necessary, to refuse to continue the transaction.

CONCLUSION:

This robust *compliance* regime was designed to ensure transparency and deter money laundering, tax evasion and illicit capital flows, and it is certain that the failure to report these transactions may result in the initiation of administrative offence proceedings against the infringing entity, with the consequent application of fines, their value depending on the quality of the offender (if the infringement is committed by an individual or legal person), suspension of real estate licenses and potential liability for criminal facilitation of money laundering. Thus, it is imperative to work with real estate agents and legal advisors who ensure the regularity of transactions.