



INSURANCE

THE INSURANCE AND PENSION FUND SUPERVISION AUTHORITY

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It was against this background that Law no. 67/2013 of 28 August – Regulatory Entities Framework-Law – was approved. This new law establishes a set of general principles and rules that require a revision of the statutes of Portuguese regulatory bodies and, in some cases, a change in their names.

The revision of statutes brought about by the Regulatory Entities Framework-Law led to the publication of Decree-Law no. 1/2015 of 6 January. This Decree-Law has changed the name of *Instituto de Seguros de Portugal* (ISP) (Portuguese Insurance Institute), to *Autoridade de Supervisão de Seguros e Fundos de Pensões* (ASF) (Insurance and Pension Fund Supervision Authority). In addition, the Decree-Law adapts and republishes the respective statutes in compliance with the provisions of the Framework-Law.

These are some of the most significant changes that result from the ASF's new statutes:

- 1) **Consolidation of Organic Independence:** The absence of any governmental supervision or control, except for the authority of the Minister of Finance. The Government is also prohibited from making recommendations or issuing directives to the ASF Board of Directors on its regulatory activity. However, the member of the Government responsible for the area of finances maintains the power of prior approval over the annual and multi-year budgets and work plans, and the power to request information from the ASF bodies on their respective execution.
- 2) **Strengthening of Operational Independence:** A new system has been created for the recruitment and the duration of the term of office of members of the Board of Directors (formerly the Governing Board) and they are no subject to an

extensive and strict list of impediments and incompatibilities. This translates, to some degree, into the application to the regulator of the criteria of independence and even good-standing that were already in place for the entities they supervised. In addition, the term of office of the members of the Board of Directors has been extended from five to six years and any renewal of a term of office in the ASF bodies is subject to a minimum interregnum of six years between the two terms.

- 3) **New Powers:** The ASF takes on new roles and powers associated with participation in the European System of Financial Supervision, made up of the European Systemic Risk Board and the European Insurance and Occupational Pensions Authority.

- 4) **Principle of Speciality:** This principle is now enshrined in the statutes of the ASF. It establishes that the ASF has legal capacity to do all legal acts, enjoys all the rights and is subject to all the obligations necessary to perform its duties. However, it is prohibited from using its powers outside the scope of its work, or from dedicating its resources to purposes outside its remit.

Finally, the changes made to its statutes to consolidate and strengthen the ASF's principles of organic, operational and financial independence are significant because they will, no doubt, contribute to more efficient supervision that is free of outside interference and more trustworthy in the eyes of the public.

The new rules under Decree-Law no. 1/2015 come into force on 1 February 2015.



 FUNDAÇÃO
PLMJ

CARLOS LEMOS
(detail)
S/título, 2000
Prova gelatina e prata
50 x 70 cm
From the collection
of the PLMJ Foundation

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Chambers European Excellence Awards, 2009, 2012, 2014

 Iberian Law Firm of the Year
The Lawyer European Awards, 2012

 Top 50 - Most Innovative Law Firm in Continental Europe
Financial Times - Innovative Lawyers Awards, 2011-2014