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# The Impact of the Portuguese Culture in the Prevention and Detection Phases of Money Laundering Crimes

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## **Abstract**

Every day, millions of financial transactions take place around the world. These transactions are the cornerstone of the world's economy. However, crimes such as money laundering and terrorist financing threaten the stability of the financial system. Financial Intelligence Units and subject entities work every day to fight these problems. With this in mind, this dissertation was developed as a consultancy thesis for a Portuguese financial institution and it investigates how Hofstede's (1983) cultural dimensions influence the effectiveness in detecting money laundering and terrorist financing in the compliance department of the organization. From the studies conducted, it was possible to infer that three of the six dimensions proposed by Hofstede (*Individualism vs Collectivism, Power Distance and Uncertainty Avoidance*), have an impact on prevention and detection of money laundering and terrorist financing crimes, in that department. Taking the above mentioned into consideration, the first suggestion is the continuation of the effort to create measures that support communication, within the compliance department. Secondly, a new role in the compliance department can be created. This new job would have the responsibility of analysing possible flaws with the mechanisms and new ways that criminals can use to achieve their ends. Finally, the creation of a new entity with the purpose of regulation and managing the compliance profession will be suggested.

## **Sumário**

Todos os dias, milhões de transações financeiras são realizadas no mundo inteiro. Essas transações são a base da economia mundial. No entanto, crimes como o branqueamento de capitais e financiamento do terrorismo ameaçam a estabilidade do sistema financeiro. As Unidades de Informação Financeira e entidades sujeitas trabalham todos os dias para combater estes problemas. Neste sentido, esta tese de consultoria para uma instituição financeira portuguesa, investiga de que forma as dimensões culturais de Hofstede (1983) influenciam a eficácia na deteção de branqueamento de capitais e financiamento do terrorismo no departamento de compliance de uma instituição financeira portuguesa. A partir dos estudos realizados, foi possível inferir que três das seis dimensões propostas por Hofstede (Individualismo vs Coletivismo, Distância de Poder e Prevenção de Incertezas) têm impacto na prevenção e deteção de crimes de branqueamento de capitais e financiamento do terrorismo nesse departamento. Tendo em conta o acima mencionado, a primeira sugestão é a continuação do esforço de criação de medidas de apoio à comunicação, dentro do departamento de compliance. Em segundo lugar, um novo posto neste departamento pode ser criado. Esta nova posição teria a responsabilidade de analisar possíveis falhas dos mecanismos de deteção e prevenção e novas formas que os criminosos podem usar para alcançar seus fins. Finalmente, será sugerida a criação de uma nova entidade com o objetivo de regulamentar e gerir a atividade de compliance.

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## 1) Introduction

In June of 2015, the Fourth European Union Anti-Money Laundering Directive (Fourth Directive) was released. Member States are required to incorporate the Fourth Directive into national law by June 26, 2017. This directive provides the guidelines to regulate and fight money laundering and terrorist financing in the member states of the European Union. The main goal of the Fourth Directive is to strengthen the EU rules against money laundering while aligning the international approach with the adoption of recommendations, done by the Financial Action Task Force (FATF) (Appendix I), on how to fight money laundering and terrorist financing. In Portugal, this directive is expected to be transposed by the beginning of 2017, and it will reinforce the *Lei n.º 25/2008, de 5 de junho* (Law 25/2008). This law regulates the duties that subject entities have to follow to prevent and detect money laundering crimes. Subject entities are the entities responsible for the reporting, to the competent authorities, of operations that can possibly be acts of money laundering or terrorist financing. According to the Law 25/2008, subject entities have the duties of identification, diligence, refusal, conservation, examination, communication, abstention, collaboration, secrecy, control and training (Appendix II).

The final European Union evaluation of the transposition of the Fourth Directive is taking place, in the end of 2016. For this reason, the Portuguese Judiciary Police has assembled a team of students from Católica-Lisbon School of Business and Economics to evaluate the transposition of the Fourth Directive into the Portuguese law, before the EU evaluation.

With this in mind, Portuguese culture will be analysed by looking to Hofstede's cultural dimensions (Hofstede, 1983) in Portugal and by studying their presence in a Portuguese financial institution. Hofstede defined six cultural dimensions that represent independent preferences for one state of affairs over another that distinguish countries from each other. The dimensions are: i) *Individualism vs Collectivism*; ii) *Uncertainty Avoidance*; iii) *Power Distance*; iv) *Masculinity vs Femininity*; v) *Long-term vs Short-term Orientation*; and vi) *Indulgence vs Restraint*. Thus, the purpose of this dissertation is to understand how these cultural variables affect the process of detecting and whistleblowing misbehaviours in Portugal.

From the studies conducted in the compliance department of a Portuguese financial institution, it was possible to infer that three of the six dimensions proposed by Hofstede have an impact on prevention and detection of money laundering and terrorist financing crimes, in that department. These dimensions are *Individualism vs Collectivism*, *Power Distance* and *Uncertainty Avoidance*.

This department has shown to have a collectivist culture. This way, communication is given special importance and, consequently, it is efficient and well done. Secondly, individuals respect the differences in power and status within the department. This has a positive influence since it facilitates the decision-making process (whether to report or not). Finally, the study also shows that the professionals of the department do not like uncertain situation. As a result, there is a clear preference for the existence of rules. Rules provide a sense of security from the employees by taking the risk of decision-making from them, since they have to comply with the rules. However, due to the profession itself, insecurity and instability towards the job still exists.

Taking the above mentioned into consideration, suggestions were provided with both the positive and negative aspects of the findings in mind. The first one is the continuation of the effort to create measures that support communication, within the compliance department. Secondly, a new role in the compliance department can be created. This new job would have the responsibility of analysing possible flaws with the mechanisms and new ways that criminals can use to achieve their ends. Finally, the creation of a new entity with the purpose of regulation and managing the compliance profession will be suggested.

## 2) Money Laundering

Every day, billions of financial transactions take place around the world. These transactions are extremely important to preserve a healthy economy. Within this flow of legitimate commerce, are illicit transactions that threaten the stability of the entire financial system. Money laundering takes places within our everyday world of routine business transactions. Although money laundering can be defined in many ways, for the purpose of this dissertation, the definition used will be the one provided by the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015, where money laundering is described as:

- a) “the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action”;
- b) “the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity”;
- c) “the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such an activity”;
- d) “participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b) and (c)”.

Therefore, it implies the execution of a crime, since otherwise it would not be needed to conceal the origins of the proceeds.

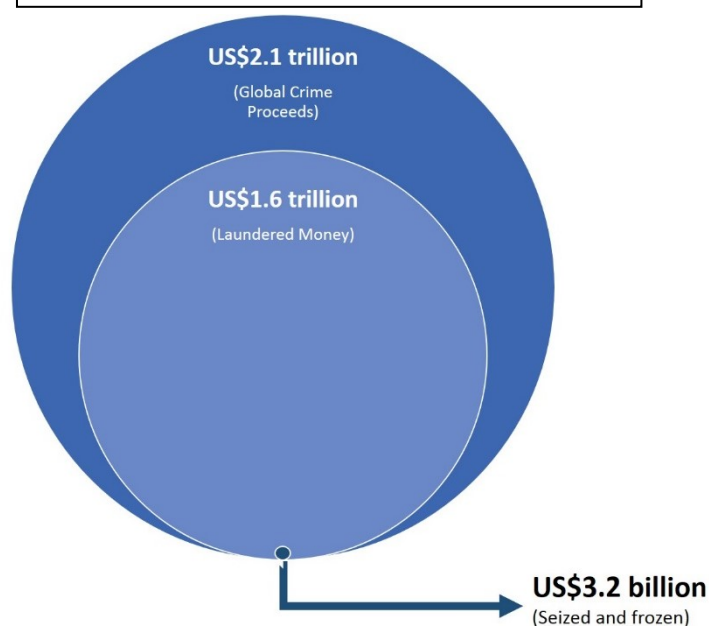
Criminals around the globe use money laundering to mask the origin of their funds, making the crimes themselves very difficult to detect. There are many techniques for laundering funds. Most of them involve three stages: (1) placement, (2) layering and (3) integration (Schott, 2006). (1) Placement involves placing the proceeds of crime within a

legitimate financial system. Criminals can do it by depositing cash into a bank account. For example, money launderers can divide large amounts of money into smaller portions and around different bank accounts in order to complicate the detection process. (2) Layering involves converting the proceeds of crime into another form, and creating complex layers of financial transactions to obscure the money trail. For example, a criminal might borrow against a cash deposit to get a mortgage, creating a transaction that is one layer away from the original deposit. (3) Integration involves placing the laundered proceeds back in the economy under a veil of legitimacy. The criminal could use the mortgage to buy a house, putting the illegal proceeds back into the legitimate economy.

Terrorist financing uses techniques, similar to those of money launderers, to evade authorities and cloud the money trail. As suggested by Greenberg (2002), terrorist funding may involve funds from legitimate or criminal sources. Regardless of the origin of their money, terrorist financiers often work within the formal banking system, to move funds to their final destination. By blending their illicit funds within the traditional financial system, even a simple transaction can unknowingly be linked to part of a long-standing criminal infrastructure. Whereas money launderers try to hide the origin of the funds, terrorist financiers focus on masking the destination of the proceeds, while using the same mechanisms.

Money laundering and terrorist financing can be extremely harmful (McDowell, 2001). These are not victimless crimes. Criminals conduct any manners of crimes to generate money: drug trafficking, weapons smuggling, fraud, theft, kidnapping, extortion, Ponzi schemes and market manipulation. However, the proceeds of these crimes are only of value to the criminals if they can convince the public that the funds are legitimate. By enabling criminals to mask the proceeds of their crimes, money laundering facilitates future corruption and causes severe harm to

**Figure 1 - Money Laundered Globally**

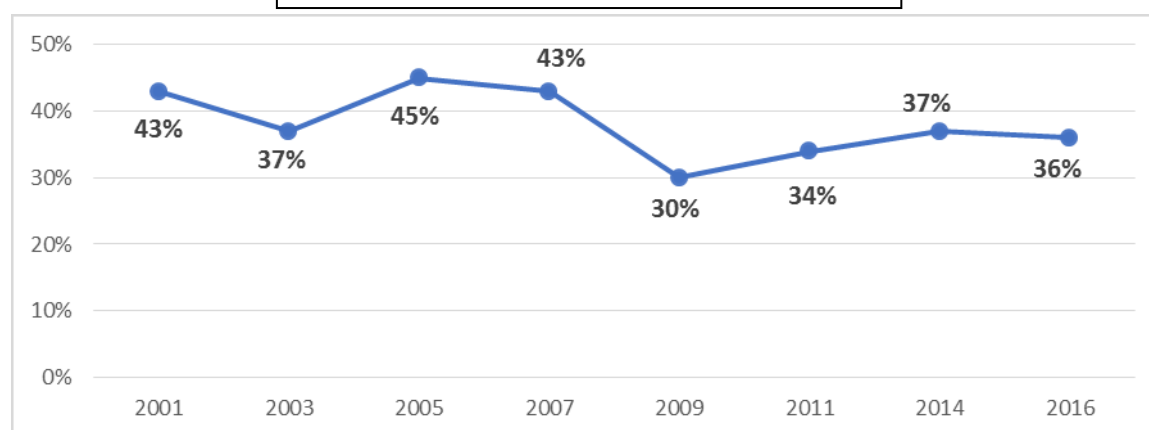


Source: United Nations Office on Drugs and Crime, (2011).

social stability and security (McDowell, 2001). The scope of laundered criminal proceeds is estimated in billions of dollars worldwide. By undermining the legitimacy of the private sector and the integrity of the financial markets, by creating economic distortions and instability, by blending illicit funds into the world's economy, and posing as a reputational risk for countries, money laundering is a serious threat to the global economy (Directive (EU) 2015/849, (2)). As long as money laundering is feasible to criminals, it will continue to play a significant role in perpetuating crime. It encourages the criminals to commit the acts that produce illicit proceeds, and gives organized crime the funds it needs to conduct further criminal activities, including terrorist acts, driving up the social costs of this problem (McDowell, 2001). On top of this, as suggested by McDowell (2001), it influences business decisions, enhances the risk of default by banks, takes control of economic policy away from the government, harms a country's reputation, and increases the exposure of people to crimes such as drug trafficking. It is extremely important to our global security and stability that we put a stop to a flow of illegitimate assets.

As reported by the United Nations Office on Drugs and Crime, in what concerns the size of this problem worldwide, it is estimated that, in 2009, all criminal proceeds accounted for 3,6% of the global GDP, representing US\$2.1 trillion, and from this, US\$1.6 trillion was available to launder, corresponding to 2.7% of global GDP. That said, the best estimates for the total amount of laundered money in 2009, point for US\$1.6 trillion, or 2,7% of global GDP. However, the interception rate remains low at the global level. It is estimated that only 0,2% of the money laundered through the financial system are seized and frozen (Figure 1). In the past year, the Global Economic Crime Survey, conducted by PwC, reported that 36% of the companies surveyed were victims of economic crime (Figure 2). This was the first time, since the global financial crisis in 2008 that this rate has decreased.

**Figure 2 - Reported rate of economic**



Source: PwC. 2016. *Global Economic Crime Survey*

### 3) Terrorist Financing

In the Directive (EU) 2015/849 terrorist financing is defined as “the provision or collection of funds, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA (1)”.

Fund raising might be the backbone of every terrorist organization. Without funds, these organizations would not be sustainable and would not be able to have the necessary resources to pursue their activities. Thus, it is crucial for terrorist organizations to raise money, and they do it from a variety of sources and move it in many different manners.

Let us take al-Qaeda’s example. In what concerns its structure, al-Qaeda is decentralized, compartmentalized, flexible, and diverse in its methods and targets. Nevertheless, by analysing their financial network we can see that it is characterized by layers and redundancies. The money is raised from different sources and they move it in a variety of ways. They use the global financial system, the Islamic banking system, and the underground *Hawala* system, among other money transfer mechanisms to move around their money (Greenberg *et al*, 2002).

However, how exactly are these funds raised? As indicated by Greenberg, the network of corporations that Osama bin Laden was able to create when he lived in Sudan, or the honey traders in Yemen, are examples of legitimate businesses ran by the organization, providing them a cloak of legitimacy under which they can operate. On the other hand, we have funds originating from criminal enterprises. Some of these come from the relationship al-Qaeda has with the heroin trade in Afghanistan. The profits earned from both the legitimate and illegitimate businesses are laundered, in order to hide the destination of the funds and then channelled to terrorist ends. Local cells are also encouraged to be financially self-sufficient and often engage in crimes like theft and fraud (Greenberg *et al*, 2002).

However, the financial backbone of al-Qaeda’s structure are the funds raised through the foundation of charities, non-governmental organizations, mosques, websites, fund-raisers, banks and other financial institutions. They also take advantage of some Islamic religious

duties like the *zakat*. The *zakat* presupposes that all Muslims have to give at least 2,5 percent of their income to humanitarian causes, which the lack of regulation and documentation make an easy target for terrorist groups to take advantage of. In fact, al-Qaeda is not the only terrorist organization to use these mechanisms. Reports have suggested that terrorist organizations have been cooperating in money laundering and other activities (Greenberg *et al*, 2002).

#### **4) Money Laundering and Terrorist Financing Prevention and Detection**

The prevention and detection of money laundering and terrorist financing is coordinated by the Financial Intelligence Units (FIU). The FIUs are the central national agencies with the responsibility to receive, request, analyse and diffuse, to the competent authorities, financial intelligence (*Unidade de Informação Financeira*, 2015). This information regards proceeds from crimes, potential financing to terrorism and information, mandatory by law, to fight money laundering and terrorist financing. They are also requested to cooperate internationally with each other in order to detect and prevent money laundering and terrorist financing. This way, when coordinating the fight against the issues being studied, the FIUs use the guidelines provided by the European Union.

In May 2015, the European Parliament and Council released the Directive (EU) 2015/849. This is the fourth directive published with the goal of fighting money laundering and terrorist financing. It was preceded and built on the Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005, the Third Directive.

The goal of the Third Directive was to include new concepts, reinforce others and establish new guidelines in the fight of the crimes being studied. The first and most relevant point that this directive brought up was the inclusion of the concept of terrorist financing in addition to money laundering. The first two directives covering this matter only had in consideration the fight against money laundering. With the directive published in 2005, the concept of terrorist financing was considered to be related with money laundering, thus, included in it. In addition, the directive reinforced four duties: the duties of identification, diligence, report and cooperation. Moreover, it introduces the concept of Politically Exposed Person (PEP). A PEP is someone who has been entrusted with an important public function, or is an immediate family member or someone known to be a close associate of such civil servant (Directive (EU) 2015/849, art. 3, (8)). The third directive also reinforces the idea of a Risk Based Approach when dealing with these crimes.

Besides the third directive, the EU also took under consideration the recommendations provided by the Financial Action Task Force (FATF). This organization was formed in 1989 and its goals are to set standards and encourage an effective

implementation of legal, regulatory and operational measures to fight money laundering, terrorist financing and other related threats to the integrity of the international financial system. The FAFT recommendations are accepted as the international standard in the fight against money laundering and the financing of terrorism.

With this in mind, the latest Directive enables an easier interpretation of requirements, and gives clarity on aspects that could be ambiguous. The Fourth Directive introduced some updates on what financial institutions should do. It provides more explicit guidelines for the implementation of Risk Based Approach, ongoing monitoring, Customer Due Diligence and PEP practices, includes the concept of Beneficial Ownership and analyses FIU's rights and duties. Member states have up to two years to transpose this Directive into national legislation, starting from the finalization of the new legislation from the EU. Due to these new requirements, subject entities should ensure that they are prepared for the proposed changes, and have measures in place to train staff, update policies and procedures, and implement new controls.

## **5) Money Laundering and Terrorist Financing in Portugal**

In order to study money laundering and terrorist financing, it is important to reduce the scope, and because this dissertation focuses on Portugal, it is important to analyse the Portuguese situation.

In Portugal, drug trafficking, corruption, art and cultural artefacts, extortion, frauds, tax offences and illegal immigration are the crimes more often associated with money laundering (Unger et al., 2013). In 2009, it was estimated that the proceeds from crime reached €2.009 million, being that the amount of money that could be laundered, corresponding to 1,27% of the GDP (Unger et al., 2013).

In the Corruption Perceptions Index<sup>1</sup>, Portugal is ranked the 28<sup>th</sup> in a global level. In 2015, 10.139 cases were reported to the Portuguese Financial Intelligence Unit (FIU). Data from the Portuguese FIU's annual report from 2015 indicates that from these, 1.248 were investigated and 471 were confirmed to be cases of money laundering or terrorist financing, which represents roughly 5% of the reported situations. From these 471 confirmed cases, the FIU proposed a suspension of €48.703.111,12, US \$9.020.698,52 and GB £100.156,52. On top of this, the investigations were coordinated among FIUs of other countries. Amongst these, the countries most involved were Luxemburg, Spain and United Kingdom.

It is also important to analyse how the number of reports evolved in the past years. In 2012, 8.461 communications were sent to the FIU. From these, 745 inquiries were opened and 512 suspicions were confirmed. In the following year, the number of reports decreased to 7.554 and the number of confirmed suspicions also decreased to 446. However, in 2014 and 2015, the number of communications sent to the authorities would increase in both years. In 2014, it increased by 21%, comparing to the previous year, and in 2015 this number was 10.139 communications. Over these four years, the number of opened inquiries continued to increase, reaching a volume of 1.248 in 2015. Regarding the amount of confirmed suspicions, this number decreased from 512 in 2012 to 439 in 2014, growing by 32 in 2015.

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<sup>1</sup> (<http://www.transparency.org/cpi2015>)

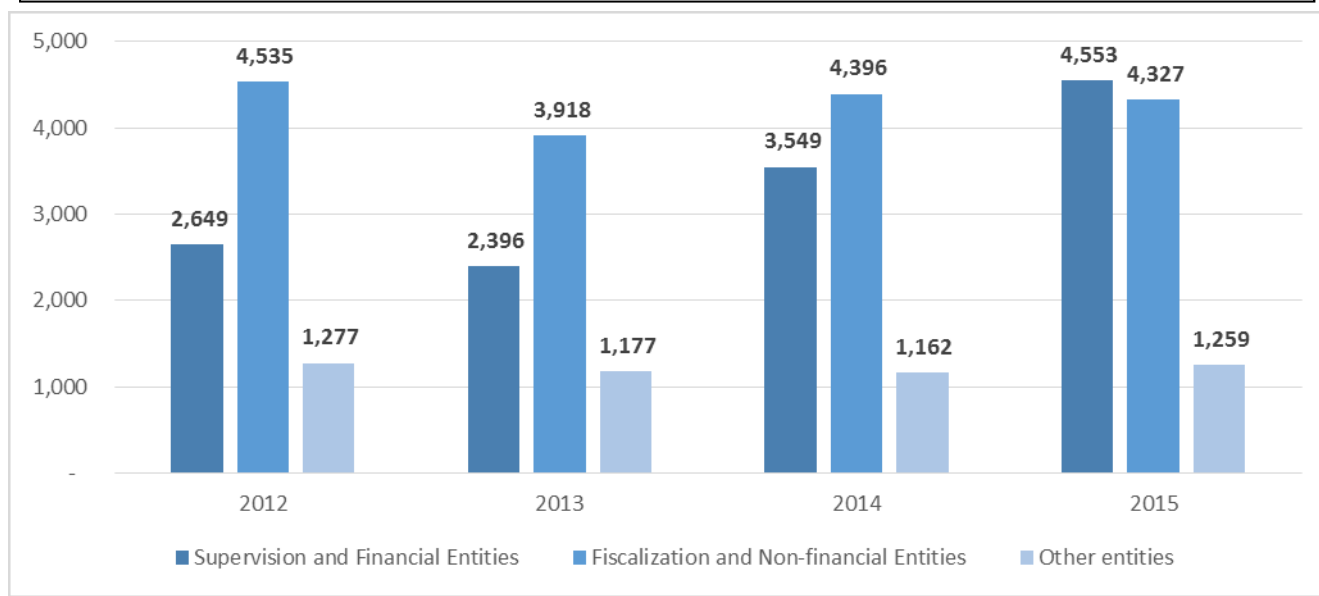
**Figure 3 – Communications received by the FIU**



Source: Unidade de Informação Financeira, 2012-2015

If we look at these numbers in Figure 3, from a perspective of how many of the communications received by the FIU are confirmed to be suspicious, we can verify that the effectiveness is low. In 2012, the percentage of received communications that turned out to be confirmed as suspicious was 6,05%. In 2015, this percentage was at 4,65%. The reason for this reduction is the larger amount of reports received by the FIU and the lower confirmation of suspicious cases comparing to 2012.

**Figure 4 – Number of Communications received per year and per group of entities**



Source: Unidade de Informação Financeira, 2012-2015

Considering this information, why did the number of communications increase in the years under analysis? The main responsables for this change are the Supervision and Financial Entities (Figure 4). These include credit institutions, exchange agencies, payment institutions, insurance companies, the Bank of Portugal, among others. The number of communications by this group went from 31% of the total number of reports, in 2012, to 45% in 2015, being the group that reports the most.

Financial Intelligence Units are the central national units with the objective of receiving, centralizing and diffusing intelligence regarding the prevention and investigation of money laundering, terrorist financing and tax related crimes. As explained by the Inspector Miguel Trindade Rocha<sup>2</sup>, the structure and way of acting of a FIU can follow one of four types of models: (1) the administrative model, in which the FIU is included in a regulatory or supervision entity, or established as an independent administrative authority; (2) the law enforcement model, where the FIU is connected to a police agency, whether general or specialized; (3) the judicial or prosecutorial model, where the agency is affiliated with a judicial authority or the prosecutor's office; (4) or the hybrid model, in which the FIU follows a combination of the before-mentioned three.

The Portuguese FIU follows the law enforcement model. This type of FIU structure allows for the access to other databases, like police, national and international databases, and enables for a faster police reaction. On the other hand, the disadvantages associated with this type of FIU, are related with the level of confidence between subject entities and the authorities, making a relationship of trust and cooperation necessary for a better flow of information.

Money laundering prevention is done in three stages. The first one is prevention, which consists in reducing the risk of financial criminality, through controls that prevent fraudulent actions. The second stage is present in a later phase of money laundering, and consists in detecting it. Finally, controlling entities resort to repression by applying corrective measures and repairing the damage caused by the crime.

However, because this dissertation focuses on the prevention and detection phases, it is important to define the process of prevention and detection of money laundering crimes.

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<sup>2</sup> Miguel Trindade Rocha is an inspector in the Financial Information Unit of the Portuguese Judiciary Police, with many years of experience in the fight against money laundering and terrorist financing. He was the coordinator of the project that evaluated the transposition of the Fourth Directive into the Portuguese Law.

The first step is done by subject entities. These entities often have mechanisms that issue alerts when suspicious transactions are done. If we use banks as an example, these organizations have built mechanisms in which, based on the characteristics of the transaction and other factors, an alert is issued. After these issues, the elements of the compliance office analyse the operation, in order to decide if it is in fact suspicious or not, and communicate it to the FIU. This is the critical step that this dissertation is trying to analyse. In this part of the process, the individuals taking part in it have to make a decision. This decision is subject to the influence of the personality of the individual, to the environment and culture of the company, and to the national culture, that influences the decision making directly, by affecting the individual, and indirectly, by affecting corporate culture and environment. Therefore, the individual chooses whether to report or not to report the operation to the FIU. After receiving the information about the suspect operations, the FIU has the responsibility to treat and analyse the information, disseminate the reports, return the treated information and elaborate statistics. If the suspicion is confirmed, the information will be forwarded to the Attorney General of the Republic, who will investigate the matter.

In a perfect case scenario, assuming that money laundering is a variable, the level of maximum efficiency would be achieved. This means that from all the alerts issued, all the illegal operations would be part of them. From these alerts, only and all the illegal operations would be communicated to the FIU, reducing in this way the workload of FIU inspectors, and maximizing the number of illegal activities identified. Finally, from the communications to the FIU, all of them would be illegal operations, and no illegal operation would be left unidentified.

However, this scenario is almost, if not completely, unachievable. The alerts issued are identified by searching for indicators and typologies (Appendix III). Later these alerts are analysed by individuals who chose whether to report or not to report to the authorities. Consequently, the individuals who detect and report these crimes are exposed to the culture and ethical values of the place that condition their behaviours, more specifically the country, the sector and the company they are inserted in. By being exposed to a certain culture, an individual allows that culture to influence their values, behaviours and thoughts. As a result, those same values influence the individual's decision-making. Thus, the cultural aspect of a nation plays an important role in the behaviours of individuals (Hofstede, 1983), and therefore, it can influence the reporting (or not reporting) of money laundering cases.

## 6) Defining Culture

Over the years, studies have suggested that national cultures have influence on management (Hofstede, 1983). To be more precise, Hofstede (1983) defines three levels at which culture is important to management. The first is at a political level. Nations are political units with their own forms of government, legal systems and labour unions, affecting in different ways management. Secondly, at the sociological level, culture has a symbolic value to citizens. Individuals derive part of their identity from the culture of the country they grow in, giving them a sense of belonging to the community. The third aspect is psychological. An individual's thinking is partly conditioned by national culture factors, as stated by Hofstede (1983).

Culture is a very complex concept, and so, we cannot use a single definition. In fact, there are more than 160 definitions of culture (Treven et al, 2008). One of the earliest definitions was proposed by Edward B. Tylor (1871). He describes culture as “a complex whole which includes knowledge, belief, art, law, custom, and any other capabilities and habits acquired by a man as a member of a society”. However, for the purpose of this dissertation, the definition proposed by Geert Hofstede in 1983 will be used. The author describes national culture as a “collective mental programming”. It is part of an individual's conditioning that is shared with other members of the same nation, region or group but not with members of other nations, regions or groups. Meanwhile, characterizing a national culture does not mean that every individual will act accordingly to how it is defined, and that every individual within that culture is mentally programmed in the same way. In fact, the national culture is kind of an average pattern of beliefs and values, around which individuals from a given country are expected to vary (Hofstede, 1983). Furthermore, the country scores on these dimensions are relative, meaning that culture can only be used by comparison.

In 1983, Hofstede focused his attention on work-related values while studying culture. The study conducted by this author, aggregated data from more than 116,000 IBM employees from 40 countries. From this study, Hofstede defined four dimensions to explain differences among cultures. Although the data used in the study is from the 1970s, recent studies have confirmed Hofstede's findings, with minor differences (Treven et al, 2008), and two more dimensions have been included since then.

The first dimension is Individualism versus Collectivism. It reflects whether the preferred way to deal with issues is through an individual or collective action. In cultures high on individualism, individual needs, concerns and interests are emphasized over those of the group. On the other hand, in cultures oriented to collectivism the opposite is true. Everyone is expected to look after the needs, concerns and interests of the in-group. There is statistical proof that the level of individualism in one country is positively related to the countries' wealth.

Power Distance is the second dimension, and explains how society deals with the fact that people are unequal in what concerns power, wealth and status. This dimension is related to the degree of centralization of power and the degree of autocratic leadership. Cultures high on Power Distance accept high levels of difference in power and authority between members, whereas, low power distance cultures do not. Collectivist countries always show large power distance, while Individualist countries do not always score low on Power Distance.

Thirdly, there is Uncertainty Avoidance. This dimension measures how society deals with the uncertain characteristics of the future. In some societies, people are more willing to take risks than in others. In these societies, people tend to feel relatively secure. Societies that score low on Uncertainty Avoidance show these characteristics. On the other hand, in societies that score high in this dimension there will be a higher level of anxiety, translating into greater nervousness, emotionality and aggressiveness. These societies tend to prefer rules and operate in seemingly predictable situations.

The fourth dimension is Masculinity versus Femininity which attributes values associated with masculinity and femininity to different cultures. Characteristics associated with masculinity are aggressiveness and dominance, and in societies that score high in masculinity, there is a strong emphasis on achievement, growth and challenge in jobs. In these cultures, people tend to be more assertive and not showing as much concern for individual needs and feelings. There is also a higher concern for job performance. On the other hand, in societies strong in the feminine dimension, factors like working conditions, job satisfaction and employee participation are more valued.

After publishing the paper where Hofstede introduces the cultural dimensions, the author later added a fifth dimension, Long-term versus Short-term Orientation. It reflects how a culture positions itself in what concerns the future. Long-term oriented cultures are more

concerned with the future and they plan for the long-term, giving importance to their savings and persistence. On the other hand, short-term oriented cultures value the present more, and show more concern about answering to their social obligations.

Finally, the dimension more recently included, is Indulgence vs Restraint. According to this dimension, an indulgent society is one that allows relatively free gratification of basic and natural core human drives related to enjoying life and having fun. One example of this would be a society where an individual feels more predisposed to buy himself/herself a treat after accomplishing a goal. On the other hand, a restrained society is one that suppresses the above-mentioned gratifications, regulating them by using strict social norms.

## 7) Portuguese Culture

After having defined the cultural dimensions, it is important to analyse them using “Portuguese goggles”. By doing so, it is possible to get a good overview of the drivers and traits that might influence the detection of money laundering and terrorist financing crimes.

Starting with *Individualism vs Collectivism*, this dimension measures the degree of interdependence within the members of the society. Whether the decision-making is done with the “We” or the “I” in mind. Like in most of the European countries, Portugal has a low score of 27 on Individualism. It is, therefore, a Collectivist society. This translates into a close and long-term commitment to the individual’s in-group, being that the family, extended family or other relationships. Loyalty plays a very important role. In this type of societies, strong relationships are developed, and everyone takes responsibility for other members of the group. Offence leads to shame and loss of face, employer/employee relationships are perceived almost as a family link and hiring and promotion decisions are done taking into account the employee’s in-group.

In what concerns *Power Distance*, this dimension deals with the extent to which individuals accept the differences in power and status in the society. Portugal has a score of 63 in this dimension, meaning that hierarchical distance is accepted and the one in the top positions have privileges for that. The boss requires information from the subordinates and they expect to be controlled by the boss. Showing lack of interest for a subordinate can lead to the demotivation of the employee, and at the same time, negative feedback is very distressing for him. For this reason, the subordinate has a hard time coming to the boss with negative information.

*Uncertainty Avoidance* is the degree to which the members of a certain society deal and feel uncomfortable with uncertainty and ambiguity. Uncertainty and ambiguity bring anxiety with them, and different cultures deal with it differently. If there is a dimension that better defines Portugal, this is the one. This country has a score of 99, which is one of the highest in this dimension. Nations that try to avoid uncertainty have rigid codes of beliefs and behaviour and are intolerant to unorthodox ideas and behaviours. There is an emotional need for rules, whether they work or not, people have an inner need to be busy and work hard,

there might be some resistance to innovation and security is important for the motivation of the individual.

The *Masculinity vs Femininity* dimension tells what motivates people the most, wanting to be the best (Masculine), or liking what they do (Feminine). Portugal has a low score of 31 on Masculinity. This means that its culture is more likely to be driven by Feminine stereotypes. In this type of cultures consensus is important, and it is reached through involvement. Polarization or excessive competitiveness are not well received. Managers strive for consensus, people value equality, solidarity and quality in their working lives. Conflict is managed by compromising and negotiating. People favour incentives such as free time and flexibility, and the focus is on well-being, not status.

The fifth dimension, *Long-term vs Short-term Orientation* describes how cultures maintain links with the past while dealing with the challenges of the future. In this dimension, Portugal has a low score of 28, showing that there is a preference for a normative thought rather than pragmatic. Portuguese people have a strong concern with establishing the truth, and show a great respect for tradition. They also show a small propensity to accumulate savings and people in this country are focused on achieving quick results.

Finally, *Indulgence vs Restraint* stands for the extent to which people try to control their desires and impulses. With a score of 33 on Indulgence, Portugal is considered a restrained country. There is a tendency for cynicism and pessimism in these cultures. Cultures characterized by restraint do not put much emphasis on leisure time and control the gratification of their desires. People with this orientation have the perception that their actions are restrained by social norms and feel that indulging themselves is somewhat wrong.

## 8) Methodology

In order to study the impact of the Portuguese culture in preventing and detection money laundering and terrorist financing, I conducted interviews in a Portuguese financial institution in which the compliance activity would have an impact in how the organization operated. This institution<sup>3</sup> is a perfect match for the purpose of this dissertation since, due to the various services it provides, it is quite exposed to the risk of money laundering and terrorist financing. On top of this, this organization was mentioned by individuals of the Portuguese FIU, as an interesting case study for this dissertation.

The conducted interviews had a semistructured format. A protocol with open-ended questions (Appendix IV) was prepared, as a way to capture the presence of certain characteristics related to the dimensions being studied and how they would influence the compliance activity of that department. Given the interviewees answers, if it made sense, related questions would be asked. By making open-ended questions and adding new questions from the ones in the protocol, the inquired people were able to reflect about this topic and reach their own conclusions. The interviewees in question were the Chief Compliance Officer (CCO), the Money Laundering Reporting Officer (MLRO) and the Money Laundering Reporting Officer Assistant (MLRO Assistant). Besides these individuals, two more employees from the compliance department were invited to discuss how the Portuguese culture influences the prevention and detection of money laundering and terrorist financing.

While interviewing the CCO, I wrote down his answers and my reflections and, in the other interviews, I audio-recorded the full interviews. This allowed me to better analyse the interviews and try to understand the link and causality nexus between the six dimensions proposed by Hofstede and the process of preventing and detection money laundering and terrorist financing in this financial institution.

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<sup>3</sup> I signed a confidentiality agreement, which does not allow me to disclose information that might lead to the identification of this organization.

## 9) Findings

After interviewing elements of the compliance office of a Portuguese bank, it was possible to draw conclusions that support some of the previous assumptions. Using the cultural dimensions model defined by Hofstede, the interviews show evidence that support the hypothesis that Portuguese culture can influence the detection phase of money laundering crimes and terrorist financing in three of the previously mentioned dimensions. The conclusions that can be derived from the interviews are that the dimensions *Individualism vs Collectivism*, *Power Distance* and *Uncertainty Avoidance* have an influence in the detection of money laundering and terrorism financing crimes in Portugal. Regarding the dimensions *Masculinity vs Femininity*, *Long-term vs Short-Term Orientation* and *Indulgence vs Restraint*, the interviews resulted in no evidence that there is a direct influence in the crimes being study. However, future investigations can further study these dimensions with focus on these crimes in Portugal.

The interviews began with the explanations of the compliance department's structure. In the past year, this department has suffered some structural changes. Currently, the Compliance department employs over 50 people. The head of the department is the CCO and below this person are the heads of each of the sub-divisions. These divisions had the shared responsibility to do the entire compliance mandated by law and complement it in other ways. This structure has suffered some changes. With these changes, the internal audit and control stopped being a responsibility of the compliance department and the business ethics of the organization was further developed. From these developments, a new code of conduct transverse to the entire company was drawn up. In addition, the policy of conflict of interests was improved, as well as the Know Your Customer (KYC) and Know Your Transaction (KYT) processes. However, the interviews and analysis were focused on the department responsible for the communication and reporting to the competent authorities, the Prevention and Detection of Money Laundering division. This division employs around half of the total number of employees of the Compliance department.

As mentioned before, the Prevention and Detection of Money Laundering division is the one responsible for identifying the suspicious transactions and report them to the competent authorities. More specifically, the people responsible for the reporting and had the final word were the CCO and the MLRO. Although the CCO has larger formal power than

the MLRO, and is the MLRO's superior, these decisions are made together. As confirmed by the MLRO, although the CCO is the one with largest formal power, "(...) the decision to report or not is a joint decision, so we need to communicate daily".

The reason for this is the background of both of these professionals. On the one hand, the CCO is a professional with a large number of years in the company. He has a very good knowledge of the functional areas of the organization and has the necessary experience and knowledge about compliance. On the other hand, the MLRO is an expert in the Anti-Money Laundering and Terrorist Financing subjects and his level of expertise on these matters is higher than the CCO. Therefore, his opinion is always taken in high consideration. As the CCO mentions, "In case of doubt, I trust the opinion of the MLRO. (...) He has more experience than me in compliance."

When evaluating *Individualism vs Collectivism* it is important to assess if the dimension's evaluation is in accordance with Hofstede's results and to know its possible implications. *Individualism vs Collectivism* evaluates the relation between an individual and his own in-group. It measures the level to which each person prefers to take an individual or collective action to deal with issues. In individualistic societies, ties between individuals are very loose and each person is expected to look after his/her own self-interest and the interest of his/her immediate family. This only happens because society gives a large amount of freedom to individuals. On the other hand, in collectivistic societies, everyone is expected to look after the needs, concerns and interests of the in-group and the ties between individuals are very tight.

In this dimension, Portugal scores 27 on *Individualism*, characterizing it as a collectivistic society. This translates into a close and long-term commitment to the individual's in-group, being that the family, extended family or other relationships. Loyalty plays a very important role. In this type of societies, strong relationships are developed, and everyone takes responsibility for other members in the group. Offence leads to shame and loss of face, employer/employee relationships are perceived almost as a family link and hiring and promotion decisions take into account the employee's in-group.

When one mentions the impact that this dimension has in an organization, more precisely in a compliance department, those can be seen at the frequency of communication, how the individuals communicate within the department, the availability to help other co-

workers, the kind of relationships between members of the department and, most importantly, how is the decision to report or not made, if it is a decision of an individual or a rather collective decision.

The conducted interviews provide evidence to confirm that the department under study has a rather collectivistic culture. Not surprisingly, it goes in accordance with the Portuguese culture. In this specific compliance department, there is a high degree of communication. Communication is considered essential to perform the job and, as said by the MLRO, “In a department of detection and prevention of money laundering with over 20 employees, if there is no communication, everything will fail”. The same person reinforced the importance of communication with “The individual who is not able to stop for a second and share important information to his/her colleague, I doubt that person will work for a long time with me”. Therefore, communication is a frequently used and important practice in the department. To this, the MLRO Assistant adds, “communication is crucial to make the right decision”.

In general, the interviewees admit that the communication is done in a very informal way. As the MLRO states, “The communication happens in a very informal way, and this is helped by the fact that everyone works in an open-space and everyone is involved in every step of the process”. Furthermore, the MLRO Assistant considers that employees “communicate internally in the most outright way possible”.

Consequently, all the communication process influences the decision-making. Before arriving to the CCO and the MLRO, the report of the suspect operation has passed through many people who have decided that this operation should be considered to be reported to the competent authorities. The information sharing is an important characteristic that is encouraged in the department. This way, even though the CCO and MLRO have the final word, everyone is included in the decision-making. This way more perspectives and insights are gathered and when a tough decision is to be made, these different perspectives and insights are helpful for the discussion. As the MLRO Assistant says, “It is important that the decision is reached in a participative and inclusive way and it is important for everyone to have the freedom to disagree”. Therefore, by having a collectivist culture, it is possible to have access to more information and to have a more efficient and more precise decision-making, improving the efficiency of the entire system.

The second dimension studied was *Power Distance*. This dimension reflects how society deals with the fact that people are unequal. That is reflected in power, status and wealth differences, therefore, this dimension analyses the degree of centralization of power and autocratic leadership, and to what point does society accept those differences. Cultures high on Power Distance accept high levels of difference in power and authority between members, whereas, low Power Distance cultures do not have such tolerance. Collectivist countries always show large Power Distance, while Individualist countries do not always score low on Power Distance (Hofstede, 1983).

This last statement is true in Portugal. Considered as a collectivist country, Portugal has a score of 63 in Power Distance, meaning that differences in power, status and wealth are accepted to some extent. Consequently, hierarchical distance is accepted and the ones in the top positions have privileges that come with the position. The boss requires information from the subordinates and they expect to be controlled by the boss. Showing lack of interest for a subordinate might lead to the demotivation of the employee, and at the same time, negative feedback is very distressing for him. For this reason, the subordinate has a hard time coming to the boss with negative information.

When applying the concept of *Power Distance* to the detection and prevention of money laundering and terrorist financing crimes, it should be analysed to what point employees in the Compliance department accept the differences in power within the organization, meaning, to what point are differences in power in the hierarchy of the company accepted.

From the interviews, it was possible to find that, although the employees share the same workspace and there is a preference for a more horizontal structure, in order to optimize the information flow in terms of speed, all the employees seem to accept the differences in power within the organization. This argument can be clearly confirmed by one of the interviewed employees who said that in his sub-division his superior “taught me that this is a democracy, but he is the boss. (...) In the same way that there are rules, there must be someone to impose the rules and say that if something needs to be done in a certain way, it needs to be done that way”. On top of this, the MLRO Assistant is of the opinion that “there needs to be a voice to transmit authority”. He also supports the idea of a more horizontal structure that “facilitates the information flow and avoids disclaiming responsibility” from the employees. The MLRO Assistant adds, “I will always give my opinion, but if my superior

says that it is going to be that way because he says so, I will respect the formality of his authority”. Although the decision-making process is done in a collective way, the final word and the norms are established by the top of the hierarchy, existing this way a combination of collectivism and acceptance for the differences in power and status within this organization.

All these arguments support Hofstede’s conclusion that, like in Portugal, in this department, power, status and wealth differences are accepted. However, there is one specific situation when this evidence does not confirm the presence of *Power Distance* in this department. More specifically, this happens when the specialist in the detection and prevention of the crimes under analysis is not the person on top of the hierarchy. In this organization’s case, the specialist was the MLRO, the second in command. For this reason, the final decision, whether to report or not, was a joint decision between the CCO and the MLRO. However, as both of them stated, they communicate in a daily basis and always reach consensus.

Communication with the competent authorities and amount of information sent to them are two very important variables when preventing and detecting these issues. It is important to exist a constant flow of information between authorities and subject entities in order to accelerate the decision process to suspend or not the operation. On the other hand, because of the overload of information that the authorities receive from all the subject entities, it is important to be selective in which operations to report or not, in order to speed up the process.

By imposing hierarchical differences, the compliance office of this organization is able to better respond to the points previously mentioned, also because the law was discussed and analysed before being implemented. Acting in accordance to the law helps the organization being aligned with the external factors influencing the prevention and detection of money laundering and terrorist financing crimes.

The final dimension in which was found evidence that it can influence the detection and prevention of money laundering crimes is *Uncertainty Avoidance*. It is the degree to which the members of a certain society deal and feel uncomfortable with uncertainty and ambiguity. Cultures weak on *Uncertainty Avoidance* are able to accept this truth and not become upset by it. In these cultures the individuals are likely to take risks more easily, they will tend not to work as hard and they are able to better tolerate different opinions and

behaviours because they will not feel threatened. In the opposite case, societies high on *Uncertainty Avoidance* show higher levels of anxiety and nervousness. These societies prefer rules and try to act in predictable ways in order to reduce the ambiguity. In a society that has these norms embedded, people prefer stable jobs and a secure life, they avoid conflict and show less tolerance to different ideas and behaviours.

Portugal is a country with one of the highest scores in this dimension. With a score of 99, the Portuguese culture tends to show rigid codes of beliefs and behaviour and is intolerant to unorthodox ideas and behaviour. There is an emotional need for rules, whether they work or not, people have an inner need to be busy and work hard, there might be some resistance to innovation and security is important for the motivation of the individual.

According to Hofstede (1983), two possible ways to create a sense of security are technology and law. When building security through technology, the compliance department under analysis uses a computer system to detect operations that might seem suspicious. For this, the MLRO reinforces that one of his main concerns is “making sure that our activity [in the compliance department] is backed, in an optimizing way, by the machines and scrutiny tools”. The MLRO Assistant complements this idea by saying that “If I only have three clients to control it would be easy. However, due to the enormous amount of transactions that we have to analyse, it would be impossible to do with only human labour. The machines are a necessity to process all the volume of transactions”.

To create security, this department also uses the law, in the broadest sense of the word. Through the laws, formal rules and norms of the organization, it is possible to create a protection from the unpredictability of human behaviour. As the MLRO states, “(...) any detection or prevention activity has to be embodied in regulations. (...)”. When inquiring one of the employees of the department, it was possible to verify that the same opinion was sustained when this person mentioned, “There should be rules in everything. Now, who defines them depends. If we are talking about a company, there should be a hierarchical chain to define them. Within those rules, there should be given freedom to discuss them with a constructive spirit. (...) But the rules have to be followed”. It is possible to conclude that there are two reasons why the laws that regulate these issues are used as the basis of the work of the compliance department. The first is because its formal power over the organizations is respected. The second is the fact that there is a preference for the existence of rules and norms to regulate this activity. This way the compliance officers feel more secure since they

now face less risk of suffering repressive measures (such as fines) from the competent authorities and have guidelines to perform their activity. Hence, it is possible to verify that often a country with strong *Uncertainty Avoidance* is likely to have large *Power Distance*. Hofstede (1983) confirmed this fact when he identified a cluster of countries with these characteristics. In fact, Portugal was included in this group of countries that was mainly composed by Latin countries.

In the compliance department of this organization, the law is the first thing to be considered when analysing an operation. As stated by the MLRO “We follow the law directives to do our analysis. However, the law is always the basis of our work and starting from it, we build and develop our detection and prevention systems. (...) It is based on the directives given by the law that we find operations that might be suspicious”. The same person also mentioned, “The compliance officers have a crucial role in the implementation of the legal framework and have to make decisions within it”. From these quotes, we can conclude that the law is always basis of the detection and prevention system and is always respected. It is possible to see that from a perspective that analyses the law, the hierarchical differences are accepted. However, even though “the law exists and encompasses everything we do”, the MLRO states that “according to the Risk Based Approach framed in the 4<sup>th</sup> Directive, I can opt to report or not report”. This shows that the law gives freedom of decision to the subject entities, putting more responsibility on them. By complying as much as possible with the law, this department is able to be less prone to risks of this activity.

Being true that the Portuguese culture prefers a society with rules, in order to feel secure and decrease the perceived risk, these are not the only ways in which *Uncertainty Avoidance* can influence the detection and prevention of money laundering crimes and terrorist financing. In order for the rules to be effective and provide the sense of security discussed previously, they need to be clear. In general, the interviewees argue that the laws and regulations that rule this sector could be clearer. The first evidence for this argument is the opinion of the CCO that says, “(...) this sector is highly regulated”. Meanwhile, the MLRO is of the opinion that “(...) the Law 25/2008 generally is clear. However, when the Bank of Portugal tried to complement and regulate this law, they made it more complex by establishing a set of parameters that the law does not specify. (...) No law is clear at all times. Laws exist to be interpreted”. As for the MLRO Assistant, the opinion is that “The laws [that regulated the compliance activity] are not very clear since what they say is that we should

have the necessary controls to avoid money laundering and terrorist financing crimes from happening”. By reading these statements, one can understand that the compliance officers would feel more comfortable if the regulations of the compliance sector would give them specific guidelines to address these issues. However, by doing this, the legal authorities could be cancelling the flexibility for the subject entities to react to unpredicted situations. As mentioned by the MLRO Assistant “On the one hand, being selfish, the more parameterized the report criteria are the better. This way we are more protected. On the other hand, than can lead to problems of over reporting to the FIU with information that sometimes might be unnecessary”.

It is a fact that the law exists to be interpreted and that the compliance departments built their systems in accordance to their interpretation of the law. However, some situations cannot be predicted. When asked what their actions would be in a case like this, the answers were that these operations were likely to be reported. As the MLRO states “If it is relevant, it has to start being predicted. The detection and prevention mechanisms have to be adapted. If the occurrence is anomalous, it is managed in terms of control, risk mitigation and eventual report”. This shows a transference of responsibility from the compliance department to the competent authorities, in order to eliminate the risk from this uncertain situation. The MLRO Assistant reinforces this idea by saying “Any atypical or out of common situation, or that corresponds to a set of typologies of risk and eventual indications of money laundering are reported”. By doing this, there is a mitigation of risk and uncertainty and a higher sense of security. An example given for this situation was the return of Portuguese workers from Angola for Christmas holidays. In Angola, it is difficult to transfer money to Portugal due to the political and economic situation, so the individuals make large cash deposits in Portuguese agencies. When it happened for the first time, the first person to do this was considered suspicious. In that moment, a mechanism to ask for justification was adopted. When it was possible to start identifying a pattern, it ceased from being an occasional situation, to be a typology of operations that needed to be controlled better.

Another take away from the interviews was that the compliance officers feel a threat of insecurity and instability in their personal and professional lives. This argument can be proven by the statements of an employee from the compliance department, “Working in compliance is an ungrateful position. (...) it is a misunderstood job. (...) It is a kind of job where people only have news about you when something goes wrong. (...) and it is an

ungrateful job because everyone misbehaves [including other departments of the bank and criminals], but if something wrong happens the blame falls on the compliance department”. The same employee, sometimes considered this to be a job that might be “(...) demotivating. It can bring dissatisfaction. Notice that this is an activity in which nothing that you do well is valued, but when something wrong happens, you are going to be judged by it, knowing beforehand that, due to the high volume of transactions, you would not be able to detect and prevent all of them”. Moreover, according to the MLRO Assistant, “Socially, people are convinced that the fight against money laundering is responsibility of the financial institutions”. This brings up an issue of social pressure that the compliance professional have to endure.

In this sense, there is a feeling of insecurity and dissatisfaction, which is difficult to be avoided. A possible way of addressing this issue would be with the creation of a new entity that manage the activity of compliance and protects and regulates the interests of the compliance officers. As there is the *Ordem dos Contabilistas Certificados* and the *Ordem dos Revisores Oficiais de Contas*, a new entity could be created to provide the same service but with the objective of regulating and managing the compliance activity and the professionals’ careers.

In Portugal, there is clearly a preference for rules, especially when we talk about the prevention and detection of money laundering and terrorist financing. As the MLRO Assistant states, “Personally, I think everyone feels more comfortable in the presence of rules since that decreases unpredictability. Presumably, if I follow the rules, everyone else will also follow them and there is a bigger comfort and predictability in the behaviour of my competitors. That is one of the reasons why the existence of rules is important. However, it is dangerous when one sticks to the rules. (...)”. Although subject entities would prefer a more specific regulation in order to decrease the risk from their side and to prevent them from finding themselves in a disadvantageous position when comparing to their competitors, the current regulations allow for flexibility when unexpected situations appear.

So far, there is evidence to prove that the above-mentioned dimensions influence the prevention and detection of money laundering crimes. However, Hofstede has identified six dimensions. The conducted interviews do not show evidence to support the hypothesis that characteristic such as *Masculinity vs Femininity*, *Long-term vs Short-term Orientation* and

*Indulgence vs Restraint* have an impact on the prevention and detection of money laundering and terrorist financing crimes.

When it comes to *Masculinity vs Femininity*, it was not possible to identify one dominant dimension in the department. This dimension attributes values associated with masculinity and femininity to different cultures. Characteristics associated with masculinity are aggressiveness and dominance, and in societies that score high in masculinity, there is a strong emphasis on achievement, growth and challenge in jobs. In these cultures, people tend to be more assertive and not showing as much concern for individual needs and feelings. There is also a higher concern for job performance. On the other hand, in societies strong in the feminine dimension, factors like working conditions, job satisfaction and employee participation are more valued.

Portugal has a low score of 31 on Masculinity. This means that its culture is more driven by feminine stereotypes. In this type of cultures consensus is important and it is reached through involvement. Polarization or excessive competitiveness are not well received. Managers strive for consensus, people value equality, solidarity and quality in their working lives. Conflict is managed by compromising and negotiating. People favour incentives such as free time and flexibility, and the focus is on well-being, not status. However, within the department it was not possible to identify a dominant dimension.

Regarding *Long-term vs Short-term Orientation*, it reflects how a culture positions itself in what concerns the future. Long-term oriented cultures are more concerned with the future, and they plan for the long-term, giving importance to their savings and persistence. On the other hand, short-term oriented cultures give more value to the present and show more concern about answering to their social obligations. With a low score of 28, Portugal shows that there is a preference for a normative rather than pragmatic thought. Portuguese people have a strong concern with establishing the truth, and show a great respect for tradition. They also show a small propensity for accumulating savings and are focused on achieving quick results.

One of the characteristics that is associated with countries with a strong long-term orientation is the importance given to training. In the studied department, the training given to employees receives great attention. However, this training is considered important because the department is always adapting to the external environment. Money launderers are always

creating new ways to hide the origin of the illicit proceeds and terrorist financiers create new channels to hide the destination of the funds. As one of the employees of the department said, “This [detecting and preventing money laundering and terrorist financing] is a little bit like play cat and mouse with the criminals, they adapt to us and we adapt to them”. Therefore, the purpose of this training is to solve problems in the short-term and to help the professionals working in the compliance department to perform better, rather than an investment in the long-term.

The final analysed dimension was *Indulgence vs Restraint*. According to this dimension, an indulgent society is one that allows relatively free gratification of basic and natural core human drivers related to enjoying life and having fun. One example of this would be a society where an individual feels more predisposed to buy himself/herself a treat after accomplishing a goal. On the other hand, a restrained society is one that suppresses the above-mentioned gratifications, regulating them by using strict social norms.

With a score of 33 on Indulgence, Portugal is considered a restrained country. There is a tendency for cynicism and pessimism in these cultures. Cultures characterized by restraint do not put much emphasis on leisure time and control the gratification of their desires. People with this orientation have the perception that their actions are restrained by social norms and feel that indulging themselves is somewhat wrong. However, the results of the interviews do not show evidence that this dimension affects the detection and prevention of money laundering in this organization.

As mentioned before, the results of this study show evidence that three of the dimensions defined by Hofstede, have an impact in the detection and prevention of money laundering and terrorist financing in this department. However, it was not possible to find evidence to support and show influence of the other dimensions, to which I leave the space for further developments in this research.

## 10) Contributions

From the previous chapter it is possible to draw some conclusions and suggest managerial contributions that might help this financial institution to address its weaknesses and improve its strengths (Figure 5). From the six dimensions studied, three of them have influence in the prevention and detection of money laundering and terrorist financing crimes in the studied entity. These dimensions influence the processes of the compliance department at different levels.

Starting with *Collectivism vs Individualism*, it has a special influence in how the individuals in this department communicate with each other. Being a collectivistic department and because this characteristic is essential to perform this activity, a high degree of communication can be seen.

When it comes to *Power Distance*, it is possible to verify the presence of this dimension within the department, except for one situation. In general, there is acceptance to the differences in power and status according to the different levels of hierarchy, leading to a more efficient information flow and more agile decision-making. However, despite the specialist in the subject of detection and prevention of money laundering and terrorist financing not being the person on the top of the hierarchy, this individual is present in the decision whether to report or not to the authorities. This shows a good balance between acceptance of differences in power and status and organizational structure.

Finally, *Uncertainty Avoidance* is a dimension that shows a great influence in the prevention and detection of the crimes under study. It was possible to conclude that, like in the Portuguese society in general, this department has a great preference for well-defined and comprehensive rules. With the existence of rules imposed by the regulating authorities, the compliance department is able to minimize the underlying risks.

After analysing the structure and history of this compliance department, from a cultural perspective, it is possible to conclude that it has a strong and solid system of prevention and detection of money laundering and terrorist financing crimes. The collectivistic culture and the acceptance for the differences in power and status, according to the hierarchy, allow for a constant, efficient and effective information flow. This information

flow is facilitated by the high communication culture developed inside the department and the well-defined path that the information should follow. This flow also enables a more inclusive and participative decision-making that is important in this activity. On top of this, the department shows other strengths. More precisely, the large level of knowledge, expertise and experience that the professionals show.

However, and because this is an activity with volatility and a constant need of adaptation, there are some points of improvement. For starters, as stated during the interviews, due to the enormous amount of transactions that are processed by this financial institution, it is extremely difficult to detect and prevent every attempt of money laundering and terrorist financing. Money launderers and terrorist financiers are always finding new ways of achieving their ends. There is a constant adaptation from both sides (subject entities and competent authorities vs criminals). If criminals are always adapting and inventing new ways of laundering money and finance terrorist activities, the same is true to subject entities and competent authorities, who are always trying to identify new typologies and means that criminals use to achieve their ends. It is especially important for subject entities to detect as many suspect cases as possible in order to minimize the risks inherent with the non-detection of the same. By not being able to detect every case, subject entities are open to the threats penalization from the competent authorities and reputational risks.

Even though some operations are impossible to identify as being a possible case of money laundering or terrorist financing, in the future, those cases might come out to the public and be discovered. When those cases are identified, it is easy to link them to the preceding operations that led to them. However, when the compliance department evaluated those operations, it was not possible to link them to a possible case of money laundering or terrorist financing. Despite not being able to identify those operations, the subject entities through which they were done, will take the blame, possibly incurring in penalizations from the competent authorities and from reputational damage. This inability to identify every suspect operations leads to an increase of uncertainty of the activity, which consequently leads to a feeling of insecurity and dissatisfaction among compliance professionals. The compliance activity is not being supervised by an entity that can manage and regulate the activity as well as manage the professionals' careers.

In general, there is a reasonable degree of complexity regarding the law, that adding to the difficulty in identifying every suspect operation and the aversion to uncertainty, which

is present in the culture of this department, creates a set of weaknesses that need to be addressed. Based on these points of improvement, suggestions to help improve these situations will be provided

**Figure 5 – Compliance department’s Strengths and Weakness**

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>• <b>Information flow</b></li> <li>• <b>Participative and inclusive decision making</b></li> <li>• <b>Knowledge and Expertise</b></li> <li>• <b>Experienced professionals</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Inability to detect all the suspect operations</b></li> <li>• <b>Feeling of insecurity that leads to dissatisfaction towards the job</b></li> </ul>

The first suggestion is the continuation of the effort to create measures that support internal dialogue and collaboration, within the compliance department. As stated during the interviews, communication is essential for the effectiveness and efficiency of this activity. Therefore, it should be something that should be given incentive to. By encouraging communication, more suspect operations can be identified and this process can be more effective and efficient.

As mentioned in the interviews, there is a constant adaptation from the subject entities to the criminals and their ways to operate. The compliance department under study only has a reactive stance towards criminals. However, by trying to predict new ways in which criminals can launder the proceeds from the crimes they commit or to fund terrorist organizations, the process of prevention and detection can be complemented. Therefore, my second suggestion is the creation of a position in the compliance department, whose responsibilities are to complement the mechanisms of prevention and detection, by studying possible flaws or new means that can be used by criminals to achieve their goals. This way, the department would be taking a pro-active approach to tackle the problem, on top of the reactive one that is already pursued. The goal of this pro-active approach is to reduce the risk and uncertainty since it will lead to news typologies to be discovered and reduce unpredictability.

The final suggestion’s objective is to face the issue of the feeling of insecurity that sometimes compliance professionals face. No matter what, uncertainty and risk are two characteristics that are always present in the compliance activity, thus, it is impossible to

eliminate them. However, the impact that these problems have in the performance of the compliance activity can be softened. With the impact that these characteristics have in the compliance professionals in mind, by bringing a feeling of insecurity that culminates in dissatisfaction of the same professionals, the creation of an entity to manage and help regulate the compliance activity can provide an extenuation of this distress.

This new entity would exercise its activity in the same base as organizations like the *Ordem dos Contabilistas Certificados (OCC)* and the *Ordem dos Revisores Oficiais de Contas (OROC)* and would also operate in Portugal. Like the mentioned organizations, the new entity should be established by government ministerial order and be approved by Decree-Law. The objective of the new organization is to manage and help regulate the compliance activity, as well as manage the professionals' careers. Therefore, the main responsibilities of the organization are: the registry of statutory compliance professionals; conducting access exams to the profession; ensure that the Compliance professionals have a proper and continuous education; the elaboration and update of the Principles and Standards of the code of professional ethics and conduct; define and update the standards and technical procedures of the profession, taking into consideration the international standards; and perform quality control reviews of its members.

With these responsibilities in mind, the new organization will be an element that provides protection to the interests of its members. The conduction of exams of access and the registration in this organization can have a role of certification of the professional's capabilities to perform the compliance activity. On top of this, the quality of the professionals has to be assured. Thus, it is important to provide training and information updates to the compliance officers. This training and information updates can be done through sessions, workshops, discussion forums, divulgation of new legislation and biographies, conferences and meetings.

This does not mean that only professionals registered in this organization can work in compliance. However, only the professionals that are certified by this entity can underwrite the communications sent to the competent authorities. On top of this, by being registered the professional has access to benefits that would not have otherwise. The registered professionals would have access to an insurance plan that includes health, life and civil responsibility. They would also constitute a group of experts that is able to give technical and legal opinion in court, when needed.

## 11) Limitations

It is true that the dimensions defined by Hofstede have an impact in the detection and prevention of money laundering and terrorist financing crimes. However, there are other issues conditioning the detection and prevention of these crimes. These issues are present in different areas of the organization and should be addressed in different ways.

The main issue is the conflict of interests that financial institutions face. This conflict of interests originates from the fact that employees of this institution are evaluated based on their performance and their performance depends on the results obtained. However, in some cases, in order to achieve those results, the institution's agents might overlook some suspicious operations without applying the necessary prevention mechanisms. The problem comes from the lack of awareness from those employees of the importance of fighting crimes like money laundering and terrorist financing and the absence of incentives to fight these hazards. This gains special importance since these agents are the first in the organization to confront these situations. As suggested by the MLRO Assistant, "Socially, there is no stimuli for the agents to understand that, in reality, there is no conflict of interests. (...) The problem lies in the fact that they do not have the perception of the problem that they are facing. (...) In the short-term, there seems to exist a conflict of interests because they are pursuing the required results, but in the long-run it is not like that". In this case, focusing on short-term results poses a threat to the organization since it leaves the institutions more prone to the consequences of not being able to detect and prevent these crimes.

This specific problem leads to inefficiencies when it comes to detect and prevent money laundering and terrorist financing crimes. On the one hand, it leads to a higher necessity for the compliance department to be concerned with every operation because it means that there is a diminished support from other departments of the organization. On the other hand, the agents are the ones who better know the clients. Therefore, they are the ones in the best position to suspect of some operations. If this support existed, the prevention and detection mechanisms would be more efficient. As the MLRO Assistant explained, "The operational departments should perceive that money laundering and terrorist financing is also a matter of their concern. (...) Without intending to pass all the responsibility to them, they are the front-line soldiers and if there is any problem, they should also answer. (...) That awareness does not exist".

One possible solution for the problem can be a change in the performance parameters used to evaluate the employees that are responsible for the operational part of the business. This would work as an attempt to raise awareness of the importance of fighting money laundering and terrorist financing and the role of the operational departments in this fight. The MLRO Assistant shares this opinion that “This conflict exists in the immediate. Culturally, in the performance evaluation systems of commercial objectives, evaluation parameters do not reflect their role in complying. (...) If this [the implementation of new evaluation parameters] does not work, an extreme solution would be using repression and confronting the agents. However, it is impossible to win a war of behaviours through repression”.

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## 13) Appendices

### Appendix I – FAFT recommendations summary

#### **A. Policies and coordination regarding the prevention of money laundering and terrorism financing**

- 1) Risk evaluation and use of a risk based approach
- 2) Nacional cooperation and coordination

#### **B. Money laundering and confiscation**

- 1) Criminalization of Money Laundering
- 2) Confiscation and provisional measures

#### **C. Terrorist financing and proliferation financing**

- 1) Terrorist financing offense
- 2) Specific financial sanctions related to terrorism and terrorist financing
- 3) Specific financial sanctions related to proliferation
- 4) Nonprofit Organizations

#### **D. Preventive measures**

- 1) Rules on professional secrecy of financial institutions
- 2) Customer due diligence
- 3) Document preservation
- 4) Politically exposed people
- 5) Corresponding banks
- 6) Money transfer services
- 7) New technologies
- 8) Electronic transfers
- 9) Appeal to third parties
- 10) Internal controls and branches and subsidiaries abroad
- 11) Countries with higher behavioural risk
- 12) Declaration of suspicious transactions
- 13) Customer Alert and Confidentiality
- 14) Designated non-financial activities and professions: customer due diligence
- 15) Designated non-financial activities and professions: other measures

**E. Transparency and effective beneficiaries of legal persons and entities without legal personality**

- 1) Transparency and effective beneficiaries of legal persons
- 2) Transparency and effective beneficiaries of entities without legal personality

**F. Powers and responsibilities of competent authorities and other institutional measures**

- 1) Regulation and supervision of financial institutions
- 2) Powers of supervisory authorities
- 3) Regulation and supervision of non-financial activities and designated professions
- 4) Financial information units
- 5) Responsibilities of law enforcement and investigating authorities
- 6) Powers of law enforcement and investigation authorities
- 7) Fund conveyors
- 8) Statistics
- 9) Guidance and feedback
- 10) Sanctions

**G. International cooperation**

- 1) International instruments
- 2) Mutual legal aid
- 3) Mutual legal aid: freezing and loss
- 4) Extradition
- 5) Other forms of international cooperation

**Appendix II - Portuguese Law for Money Laundering and Terrorist Financing  
summary: *Lei n° 25/2008, de 05 de Junho: Lei do Combate ao Branqueamento de Capitais  
e do Financiamento ao Terrorismo.***

**1. Duty of identification**

- Require and verify the identity of clients and their representatives;
- When they suspect operations that may be related to money laundering or terrorist financing.

**2. Duty of diligence**

- Take appropriate measures to understand the structure of ownership and control of the client, whether it is a legal person or a collective interest center without legal personality;
- Obtaining information about the intended purpose and nature of the business relationship;
- Get information when the customer's risk profile or the characteristics of the transaction so require, on the origin and destination of the funds moved within a business relationship or occasional transaction;
- Maintain continuous monitoring of the business relationship to ensure that such transactions are consistent with the entity's knowledge of the client's activities and risk profile;
- Keep updated the information elements obtained during the course of the business relationship.

**3. Duty of refusal**

- Where the elements provided for in the duty of identification are not provided or the information provided in the duty of diligence is not provided, the subject entities shall refuse to:
  - Perform any operation;
  - Start a business relationship;
  - Perform any occasional transaction.

**4. Duty of conservation**

- Copies or references to documents proving compliance with the duty of identification and due diligence, as well as records of operations, shall be kept for a period of seven years.

#### **5. Duty of examination**

- Subject entities shall examine with special care and attention any conduct, activity or operation that may be related to money laundering or terrorist financing.

#### **6. Duty of communication**

- The subject entities must immediately inform the Attorney General and the Financial Intelligence Unit whenever they know, suspect or have sufficient reasons that it has taken place, is under way or has been attempted an operation capable of forming the practice of the crime of money laundering or terrorist financing.

#### **7. Duty of abstention**

- The entities subject must abstain from carrying out operations that they know or suspect to be related to the practice of money laundering or terrorist financing crimes and immediately inform the Attorney General and the Financial Intelligence Unit.
  - If the Criminal Investigation Judge does not confirm the suspension order in two working days, the operation can be carried out.

#### **8. Duty of collaboration**

- Subject entities shall promptly provide the assistance required by the Attorney General and the Financial Intelligence Unit for the performance of their duties, in particular by ensuring direct access to the information and by submitting the requested documents or records.
  - The collaboration of the entities with the authorities and the consequent reporting of suspicious communications is exclusively done in the context of the prevention of money laundering and terrorist financing, and under *Lei n.º 25/2008, de 5 de Junho*.

#### **9. Duty of secrecy**

- The entities and their collaborators may not disclose to the client or third parties, that they transmitted the communications legally owed or that a financial investigation is in progress.

### **10. Duty of control**

- In order to effectively prevent money laundering and terrorist financing, subject entities shall define and implement internal policies and procedures in respect of:
  - Internal control;
  - Risk assessment and management;
  - Internal audit.

### **11. Duty of training**

- The subject entities must take the necessary measures to ensure that managers and employees, whose functions are relevant to the prevention of money laundering and terrorist financing, have an adequate knowledge of the obligations imposed by the legislation and regulations in force in this area.

### **Appendix III – Money Laundering typologies, indicators and subject entities**

#### **Typologies:**

- Several cash deposits in small amounts
- Re-sale of luxury goods
- International complex financial operations
- Financial operations related to offshores

#### **General Indicators:**

- Frequent address change
- Curiosity about internal systems, controls, procedures and reporting
- Not very realist, confusing or inconsistent explanation of transactions or activities

#### **Cash Indicators:**

- Opening of accounts where credit movement is done exclusively in cash deposits
- Frequent usage of ATM
- High number of low amount cash deposits
- Large deposits in cash
- Large transactions of from/to a foreign country

#### **Deposit Indicators:**

- Deposits made in several locations and in several moments without a logical reason
- Accounts that can be accessed and moved by a high number of entities without a logical reason
- Accounts that are only used to transfer funds
- Clients that do no claim nor negotiate returns that are beneficial for them

#### **Transfer Indicators:**

- Online movements from/to high risk geographical zones
- Client knows very little information about the recipient of the order of payment, or is reluctant about revealing such information

- Transfers done to/from jurisdictions fiscally more favourable, without commercial reasons consistent with the client's activities

#### **Appendix IV – Interviews protocol**

1. Could you explain the structure of the Compliance department?
  - a. How many employees work in the department?
  - b. Could you explain the information flow process in the department?
    - i. Who is responsible for identifying suspect operations?
    - ii. Who is responsible for the reporting to the authorities?
    - iii. What mechanisms do you use to identify suspect operations?
2. Are you required to consult your co-workers?
3. Before making the final decision (whether to report or not), do you consult your co-workers?
  - a. Do you only do it when you consider the situation to be of a more difficult analysis?
4. In which situations do you consult your colleagues?
5. Do you consider helpful being able to consult your co-workers?
6. Do your co-workers usually offer their help, without you asking for it?
7. Do you usually offer your help, without being asked for it?
8. Do you conform to your boss' orders?
9. Would you be more in favour of a flatter hierarchy or not? Why?
10. How often do you report to your boss?
11. Do you usually go to him when you have concerns regarding the detection of suspicious operations? If not, why so?
12. Are you satisfied with your working conditions?
13. Do you share the same space as your boss?
14. How do you communicate with your boss?
15. Do you consider the law to be clear?
16. Do you consider the internal mechanisms to be clear?
17. Do you usually do only what is required of you, or do you try to go the extra mile, even though it is not required?
18. How would you react to a situation that was not predicted?
19. Would you feel more comfortable if the rules are already set, or if you could be free to do the procedures your own way?
20. Do you report only what is mandated by law?

21. How do you manage conflicts?
22. Whenever in doubt do you report right away? Or take time to think?
23. Would you rather maximize the efficiency of the reporting system or the process?  
(More focused in the outcome or the means to achieve that outcome?)
24. Do you see your job as a challenge you want to win?
25. Do you think that a good relationship with your co-workers is necessary in order to have a good performance at your job?
26. What kind of training do you receive?
  - a. Before the implementation or after?
27. Do you have certification
28. How do you plan your work? (As it comes/Daily/Weekly/Monthly)
29. Have you ever admitted that you have made a mistake while working?
30. When you make a mistake, do you take the blame?
31. Do you usually work extra hours?
32. Does this organization have any code of conduct?
  - a. Does it only focus on the compliance department?
  - b. In your opinion, is that code in agreement with the ethical principles of the society you are inserted?
  - c. Do you agree with the code?
33. In your opinion, to what extent might the current legislation be excessive?
34. Would you agree that it is lacking the existence of an external organization to manage and regulate the compliance activity?