

MERGER

Gun-jumping—statement of objections issued

↳ Acquisitions; Gun-jumping; Portugal; Statements of objections

Portuguese Competition Authority issues a Statement of Objections against a Fidelidade group company for “gun-jumping”

On 22 September 2020, the Portuguese Competition Authority (“PCA”) issued a statement of objections against Fidelidade—Sociedade Gestora de Organismos de Investimento Imobiliário, S.A. (“Fidelidade SGOII”), a company in the Portuguese financial and insurance group Fidelidade, for failure to notify in due time its acquisition of sole control over Fundo de Investimento Imobiliário Fechado Saudeinveste (“Fundo Saudeinveste”).

Under the Portuguese Competition Act, merger operations above certain turnover and/or market share thresholds are subject to mandatory prior notification to the PCA and cannot be implemented before tacit or express clearance.

In the case at hand, Fidelidade SGOII had acquired sole control over Fundo Saudeinveste on 1 October 2018, but only filed its merger notification with the PCA on 21 February 2019 pursuant to an untimely request for prior assessment of the concentration submitted on 26 November 2018.

After the PCA took the view, on 5 July 2019, that, in the light of the elements gathered up to that moment, the operation was likely to restrict competition, Fidelidade SGOII ultimately withdrew from the transaction, having restored the management of Fundo Saudeinveste to the previous managing party.

Following the PCA’s statement of objections on 22 September, Fidelidade SGOII will have at least 20 working days to exercise its defence rights.