

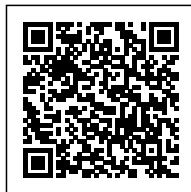
LAWYERS DEVELOPING 'PREVENTATIVE ASSESSMENT' PRACTICE - ABREU

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Though having a compliance programme is not yet enshrined in Portuguese law, lawyers are taking the opportunity to develop a new practice area focusing on helping clients eliminate the risks associated with non-compliance, say Tiago Ponces de Carvalho and Carlos Almeida Lemos, associate lawyers at Abreu Advogados in Lisbon.

"We can see the opportunity for a market expansion focused in on the idea of a preventative practice within punitive law," Ponces de Carvalho says. "While the biggest companies in Portugal are already aware of the need to be compliant and have their own compliance and risk assessment programmes, it is a completely different situation for small or medium-sized companies and, in reality, this is where all the work is to be done."

One of the main challenges is to get these companies to understand what it means to be criminal liable, according to Almeida Lemos. "In Portugal, there is a great focus on sanctioning crime after the event – when you talk about crime or injunctions regarding compliance matters to the main business man, they automatically say 'oh no, our company doesn't commit any crimes', they think we are

calling them criminals," he adds. Almeida Lemos argues that such clients do not realise how "thin the frontier is between what is a crime and injunction and no crime and no injunction - that something perfectly innocent can soon become a serious matter."

Consequently, in response to this type of viewpoint, law firms are taking the opportunity to provide client support that is centred on introducing a preventative mindset, Ponces de Carvalho says. "We believe there is a whole new opportunity in preventative assessment law," he adds. "Through training and internal due diligence procedures focused in punitive law enforcement, we can implement a preventative assessment procedure within criminal law matters - this is almost a brand new area of practice."