



**BANKING AND FINANCE | CAPITAL MARKETS**

# News – Banking and Finance and Capital Markets 3<sup>rd</sup> quarter of 2020

Below, you will find the issue of our Banking and Finance and Capital Markets newsletter for the 3<sup>rd</sup> quarter of 2020, which compiles the most significant news in this area.

**BANKING AND FINANCE**

## I. Banco de Portugal

Banco de Portugal Communication on the Retail Banking Markets Monitoring Report of 2019 ([link](#)).

Banco de Portugal Communication on the deadline for restoration of capital and liquidity reserves. As part of the measures to ease regulatory and supervisory requirements, Banco de Portugal has allowed smaller credit institutions subject to its supervision to operate, on a temporary basis, with a level of capital below the own funds recommendation (“Pillar 2 Guidance”) and the combined own funds reserve, and with liquidity levels below the liquidity coverage requirement (“LCR”) ([link](#)).

Notice 3/2020, which regulates the systems of governance and internal control and defines the minimum standards on which the organisational culture of the entities subject to supervision by Banco de Portugal must be based. Revokes Notices 5/2008 and 10/2011, as well as Instruction 20/2008 ([link](#)).

Notice of Banco de Portugal 4/2020 - Amendment to Notice of Banco de Portugal 2/2016, regulating the reporting of financial information on an individual basis for supervisory, statistical and macro-prudential risk analysis purposes, to be submitted to Banco de Portugal ([link](#)).

[Instruction \(Historical\) 18/2020](#) – Regulates reporting duties regarding organisational conduct and culture, and governance and internal control systems.

[Instruction \(Historical\) 20/2020](#) – Amends Instruction 2/2017, which regulates the Internal Credit Assessment System (SIAC).

[Instruction \(Historical\) 24/2020](#) – Announces, for the fourth quarter of 2020, the maximum rates to be applied to consumer credit agreements under Decree-Law 133/2009 of 2 June.

[Instruction 25/2020](#) – Defines the methods and terms for sending the report on the activity carried out in Portugal by financial entities with their registered office in another European Union Member State operating in Portugal under the rules on freedom to provide services, implementing the provisions of article 64 of Notice 2/2018 (“LPS Report”).

**"Banco de Portugal has put out for consultation a draft instruction regulating the organisation and management of the Banco de Portugal Accounts Database."**

[Circular Letter CC/2020/00000040](#) – Clarifies doubts about the prudential treatment of exposures originated through credit intermediation platforms, in terms of capital requirements, large exposures and anti-money laundering and terrorist financing (“ML/TF”) duties, and conveys its understanding on this issue.

[Circular Letter CC/2020/00000043](#) – End of the suspension of administrative periods established by Decree-Law 10-A/2020 of 14 March and Law 1-A/2020 of 19 March. Revokes points e) and f) of Circular Letter CC/2020/00000021 of 1 April 2020.

[Circular Letter CC/2020/00000047](#) – Warns of emerging risks of money laundering and terrorist financing (ML/TF) in the context of the COVID-19 pandemic.

[Circular Letter CC/2020/00000050](#) – Reinforces restriction on distributions during the COVID-19 pandemic.

[Circular Letter CC/2020/00000051](#), publishing the Guidelines amending the Guidelines on legislative and non-legislative moratoriums on loan repayments applied in the light of the COVID-19 crisis (EBA/GL/2020/08).

[Circular Letter CC/2020/00000055](#) – Publishes the model applicable to communications made by payment service providers to Banco de Portugal in compliance with article 70(7) of Banco de Portugal Notice 2/2018 of 26 September.

Banco de Portugal published the Second Report on Banco de Portugal Public Consultation 3/2019, on the methods and terms of reporting on the activity carried out by financial entities under the LPS rules to prevent money laundering and terrorist financing, available [here](#).

Banco de Portugal has put out for [consultation](#) a draft instruction regulating the organisation and management of the Banco de Portugal Accounts Database, under article 81a of the General Rules on Credit Institutions and Financial Companies, approved by Decree-Law 298/92 of 31 December, as currently worded. Specifically, the instruction defines rules on the information that entities participating in the Accounts Database must provide to Banco de Portugal and on the deadlines for making that information available, among others.

## II. Government / Parliament

[Decree-Law 78-A/2020](#), which amends the legal rules on financing moratoriums. In view of the various changes to these rules, we suggest you consult our analysis, available [here](#), which describes these rules as currently in force.

[Law 44/2020](#), which provides for the sixth amendment to Decree-Law 27-C/2000 of 10 March 2000, which in turn creates the system of access to minimum banking services.

[Law 53/2020](#), establishing rules to protect consumer of financial services, making the first amendment to Decree-Law 3/2010 of 5 January.

[Law 57/2020](#), establishing rules to protect consumers of financial services, by making the fourth amendment to Decree-Law 133/2009 of 2 June, the first amendment to Law 66/2015 of 6 July and the third amendment to Decree-Law 74-A/2017 of 23 June.

[Law 58/2020](#), implementing Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU and Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, and amending various laws. – This Law implements Directive (EU) 2018/843, which provides for new measures to ensure greater transparency of financial transactions, corporate entities and other legal persons, as well as trusts and similar legal arrangements (“legal arrangements or entities without legal personality”), to improve the existing preventive legal rules and combat terrorist financing more effectively. In addition, the Directive is intended to include providers whose activity consists in carrying out foreign exchange services between virtual currencies and fiat currencies. It is also intended to include providers of digital wallet custody services, in order to overcome the clear tendency for terrorist groups to use virtual currency networks to conceal transfers or to benefit from a certain degree of anonymity on these platforms. Extensive changes to access, monitoring and registration of information are also included.

[Decree-Law 63/2020](#), which regulates the activity and operation of Banco Português de Fomento, S. A., and approves its articles of association.

[Ministerial Order 191/2020](#), approving the official form for the additional solidarity payment imposed on the banking sector (declaration ‘modelo 57’) and the instructions to fill it in.

**"The Directive is intended to include providers whose activity consists in carrying out foreign exchange services between virtual currencies and fiat currencies. It is also intended to include providers of digital wallet custody services."**

[Ministerial Order 220/2020](#), updating the currency devaluation coefficients to be applied to goods and rights disposed of during 2020.

### III. European Union

[Council Recommendation](#) on the economic policy of the Euro area (2020/C 243/01).

[Recommendation of the European Systemic Risk Board](#) of 27 May 2020 on monitoring the financial stability implications of debt moratoriums, public guarantee schemes and other fiscal measures adopted to protect the real economy in response to the COVID-19 pandemic.

[Guideline \(EU\) 2020/1284](#) of the European Central Bank of 7 September 2020 amending Guideline (EU) 2018/797 on the Eurosystem’s provision of reserve management services in Euro to central banks and countries located outside the Euro area and to international organisations (ECB/2020/34).

[Decision \(EU\) 2020/1306](#) of the European Central Bank of 16 September 2020 on the temporary exclusion of certain exposures to central banks from the total exposure measure in view of the COVID-19 pandemic (ECB/2020/44).

EBA publishes guidance on impact of CRR adjustments in response to the COVID-19 pandemic on supervisory reporting and disclosure ([link](#)).

Commission sets out new, ambitious approach to encourage responsible innovation to benefit consumers and businesses ([link](#)).

## CAPITAL MARKETS

# I. Government / Parliament

[Law 25/2020](#), adapting the system of penalties provided for in the legislation applicable to investment fund management companies and securitisation fund management companies, amending the General Rules on Collective Investment Undertakings, the Legal Rules on Venture Capital, Social Entrepreneurship and Specialised Investment, the Legal Rules on Securitisation and the Securities Code.

[Law 50/2020](#), implementing Directive (EU) 2017/828 of the European Parliament and of the Council, better known as the Shareholder Rights Directive II. For more information about this legislation, please see our analysis of it, available [here](#).

**"CMVM put out for public consultation four draft regulations focused on regulatory simplification."**

## II. CMVM

CMVM put out for [public consultation](#) four draft regulations focused on regulatory simplification which, among other changes, provide for a 29% reduction in the periodic reporting obligations of entities subject to CMVM supervision.

CMVM put out for [public consultation](#) a draft report template for disclosure of non-financial information by issuers of securities admitted to trading on a regulated market, including information on the environmental, social and corporate governance impacts of their activities. Interested parties are invited to send their comments by 30 September.

## III. European Union

[Guideline\(EU\) 2020/978 of the European Central Bank](#) of 25 June 2020 on the exercise of the discretion under article 178(2)(d) of Regulation (EU) No 575/2013 of the European Parliament and of the Council by national competent authorities in relation to less significant institutions with regard to the threshold for assessing the materiality of credit obligations past due (ECB/2020/32).

[Commission Delegated Regulation \(EU\) 2020/1224](#) of 16 October 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information and the details of a securitisation to be made available by the originator, sponsor and SSPE.

[Commission Implementing Regulation \(EU\) 2020/1225](#) of 29 October 2019 laying down implementing technical standards with regard to the format and standardised templates for making available the information and details of a securitisation by the originator, sponsor and SSPE.

[Commission Delegated Regulation \(EU\) 2020/1226](#) of 12 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council and laying down regulatory technical standards specifying the information to be provided in accordance with the STS notification requirements.

[Commission Implementing Regulation \(EU\) 2020/1227](#) of 12 November 2019 laying down implementing technical standards with regard to templates for the provision of information in accordance with the STS notification requirements.

[Commission Implementing Regulation \(EU\) 2020/1228](#) of 29 November 2019 laying down implementing technical standards with regard to the format of applications for registration as a securitisation repository or for extension of a registration of a trade repository pursuant to Regulation (EU) 2017/2402 of the European Parliament and of the Council

[Commission Delegated Regulation \(EU\) 2020/1229](#) of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on securitisation repository operational standards for data collection, aggregation, comparison, access and verification of completeness and consistency.

[Commission Delegated Regulation \(EU\) 2020/1230](#) of 29 November 2019 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration of a securitisation repository and the details of the simplified application for an extension of registration of a trade repository.

**"All references to issuers of securities convertible into or exchangeable for shares issued by third parties should be deleted from the list in article 18(1) of Delegated Regulation (EU) 2019/979."**

[Commission Delegated Regulation \(EU\) 2020/1272](#) of 4 June 2020 amending and correcting Delegated Regulation (EU) 2019/979 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council with regard to regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal. – Under Commission Regulation (EU) 2019/979, issuers of securities convertible into or exchangeable for shares issued by third parties are currently required, in the situations listed in article 18 of that Regulation, to publish an addendum to their prospectus. By contrast, Commission Delegated Regulation (EU) 382/2014, which has been replaced by Delegated Regulation (EU) 2019/979, did not require issuers in those situations to publish an addendum. As these rules have proved to work properly and have not affected the level of investor protection, all references to issuers of securities convertible into or exchangeable for shares issued by third parties should be deleted from the list in article 18(1) of Delegated Regulation (EU) 2019/979.

[Commission Delegated Regulation \(EU\) 2020/1273](#) of 4 June 2020 amending and correcting Delegated Regulation (EU) 2019/980 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market. – Amends Delegated Regulation (EU) 2019/980 as regards the registration document for securities, the registration document for secondary issues of securities, the note for securities or units issued by collective investment undertakings of the closed-end type, the note for secondary issues of securities or units issued by collective investment undertakings of the closed-end type, the EU Growth document for securities and the EU Growth note for securities representing share capital.

[Commission Delegated Regulation \(EU\) 2020/1302](#) of 14 July 2020 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to central counterparties established in third countries.

[Commission Delegated Regulation \(EU\) 2020/1303](#) of 14 July 2020 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to the criteria that ESMA should take into account to determine whether a central counterparty established in a third country is systemically important or likely to become systemically important for the financial stability of the Union or of one or more of its Member States.

[Commission Delegated Regulation \(EU\) 2020/1304](#) of 14 July 2020 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to the minimum elements to be assessed by ESMA when assessing third-country CCPs' requests for comparable compliance and the modalities and conditions of that assessment.

## IV. Insurance

Publication in the official gazette Diário da República of the legal framework on setting up and operating pension funds and pension fund management companies ([link](#)).

Regulatory rule of the Insurance and Pension Funds Supervisory Authority 8/2020-R, which increases the duties of the insurers provided for in Decree-Law 20-F/2020 of 12 May ([Link](#)).

[Commission Implementing Regulation \(EU\) 2020/1145](#) of 31 July 2020 laying down the technical information for the calculation of the technical provisions and the original own funds for reporting purposes with a reference date between 30 June 2020 and 29 September 2020 pursuant to Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance.

**"The Commission Implementing Regulation (EU) 2020/1145 of 31 July 2020 lays down the technical information for the calculation of the technical provisions and the original own funds for reporting purposes."**

Circular Letter 8/2020 of 19 August, Insurance Distribution – Updating of Flexibility Measures and Recommendations in the exceptional situation relating to the COVID-19 pandemic ([Link](#)).

Circular Letter 10/2020 of 26 August, Pension Funds – Updating of Flexibility Measures and Recommendations in the exceptional situation relating to the COVID-19 pandemic ([Link](#)).

Regulatory Rule 9/2020-R of 15 September, which establishes the quarterly capital update indices for “Fire and natural elements” policies starting or maturing in the fourth quarter of 2020. ([Link](#)).

European Supervisory Authorities launch public consultation on sustainability disclosures ([Link](#)). ■

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