



**BANKING AND FINANCE | CAPITAL MARKETS**

# News – Banking and Finance and Capital Markets 4<sup>th</sup> quarter of 2020

Below, you will find the issue of our Banking and Finance and Capital Markets newsletter for the 4<sup>th</sup> quarter of 2020, which compiles the most significant news in this area.

**BANKING AND FINANCE**

## I. Banco de Portugal

Communication of Banco de Portugal on the Synopsis of Behavioural Supervisory Activities - first half of 2020 ([link](#)).

Communication of Banco de Portugal on the imposition of a capital reserve on institutions identified as “other systemically important institutions” ([link](#)).

Banco de Portugal Communication on the Economic Bulletin of October 2020 ([link](#)).

Communication of Banco de Portugal on the implications of Brexit ([link](#)).

[Instruction\(Historical\) 26/2020](#) - Regulates the obligation to report information on financing plans of credit institutions to Banco de Portugal.

[Circular Letter CC/2020/00000061](#) – Good practice in preparing the institutions for reforms of reference interest rates. Reinforces the importance of less significant credit institutions and financial companies subject to its supervision taking timely action to ensure an appropriate transition and mitigating the risks arising from reference interest rate reforms.

Banco de Portugal publication on the developments in credit moratoriums – September 2020 ([link](#)).

[Circular Letter CC/2020/00000066](#) – Provides information about the deadline for notification of the amount of minimum reserves (monthly and quarterly reports), as well as the calendar of maintenance periods for 2021.

[Circular Letter CC/2020/00000064](#) – Underlines the importance of institutions adequately complying with the guidelines contained in the “Guidelines on lending and loan monitoring (EBA/GL/2020/06)”, which are to be followed and implemented in the context of existing laws and regulations, and which will enter into force on 30 June 2021.

**"The Banking Code is intended to replace the RGICSF and other financial sector legislation, to further consolidate legislation in this sector."**

[Circular Letter CC/2020/00000072](#) – Recommendation on distributions during the COVID-19 pandemic.

[Banco de Portugal Public Consultation 7/2020](#) – Draft Notice on Agencies and Agency Extension.

Banco de Portugal Communication on the Economic Bulletin of December 2020 ([link](#)).

[Public Consultation 8/2020](#) – Draft instruction on the management and reporting by payment service providers of operational and security risks.

[Banco de Portugal Public consultation 5/2020](#) – Draft regulations on the registration of entities carrying out operations with virtual assets.

[Banco de Portugal Public consultation 6/2020](#) – Draft Banking Activity Code (until 15 January 2021). The Banking Code is intended to replace the RGICSF and other financial sector legislation, to further consolidate legislation in this sector, in line with the movement already taking place in the rest of the European Union. This new law is also intended to be more in line with current financial institutions. Furthermore, the explanatory memorandum states that the RGICSF is somewhat dated and that its constant changes have made it somewhat difficult to understand.

Recommendation of Banco de Portugal for institutions not to distribute or to limit dividends until 30 September 2021 – Circular Letter CC/2020/00000072 ([link](#)).

## II. Government / Parliament

[Rectification Declaration 38/2020](#) – Declaration of Rectification of [Law 57/2020](#) of 28 August “Establishes rules to protect consumers of financial services, 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”.

[Rectification Declaration 37/2020](#) – Declaration of Rectification of [Law 53/2020](#), of 26 August, “Establishes rules to protect consumers of financial services, making the first amendment to [Decree-Law 3/2010](#) of 5 January”.

[Resolution of the Council of Ministers 85/2020](#) – Authorises the Treasury and Public Debt Management Agency (Agência de Gestão da Tesouraria e da Dívida Pública - IGCP, E. P. E.) to issue public debt in accordance with the limits set in the 2020 State Budget.

[Rectification of Law 58/2020](#) – Rectification of [Law 58/2020](#) of 31 August “Implements [Directive \(EU\) 2018/843](#) of the European Parliament and of the Council of 30 May 2018, which amends [Directive \(EU\) 2015/849](#) on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing 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”.

[Resolution of the Assembly of the Republic 90/2020](#) – Establishment of a parliamentary committee of enquiry into the losses incurred by Novo Banco and charged to the Resolution Fund.

[Decree-Law 106/2020](#) – Approves the transitional arrangements applicable to the provision of financial services by entities based in the United Kingdom. For more details on these arrangements, please see our newsletter in this subject [here](#) (in English).

[Decree-Law 109/2020](#) – Establishes an exemption from stamp duty on export credit insurance policies, guarantee insurance policies and foreign bank guarantees.

[Law 75-A/2020](#) – Extends the suspension of possession proceedings against properties that are the owner's permanent residence until 30 June 2021. This extension could have an impact on the sale by Portuguese banks of portfolios of NPLs composed of mortgage credit.

[Law 75-B/2020](#) – State Budget 2021.

[Decree-Law 107/2020](#) – An amendment to the banking moratorium rules has been approved to allow new sign-ups until 31 March 2021 and for up to nine months. This amendment is intended to address liquidity and cash constraints arising from the economic impact of the second wave of the pandemic and incorporates a recent decision of the European Banking Authority (EBA).

### III. European Union

[Commission Delegated Regulation \(EU\) 2020/1423 of 14 March 2020](#) on supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards on the criteria for appointing central contact points within the field of payment services and on the functions of those central contact points has been published.

**"The European Banking Authority (EBA) published a first assessment of the use of COVID-19 moratoriums and public guarantees."**

[Commission Implementing Regulation \(EU\) 2020/1406 of 2 October 2020](#), Commission Implementing Regulation (EU) 2020/1406 of 2 October 2020 laying down implementing technical standards with regard to procedures and forms for exchange of information and cooperation between competent authorities, ESMA, the Commission and other entities under Articles 24(2) and 25 of Regulation (EU) No 596/2014 of the European Parliament and of the Council on market abuse has been published.

[Regulation \(EU\) 2020/1503 of the European Parliament and of the Council of 7 October 2020](#) on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 has been published.

[Directive \(EU\) 2020/1504 of the European Parliament and of the Council of 7 October 2020](#), amending Directive 2014/65/EU on markets in financial instruments has been published.

[Guidelines](#) of the EIOPA on information and communication technology security and governance.

European Banking Authority publishes Report on benchmarking of national insolvency frameworks across the EU ([link](#)).

The European Banking Authority (EBA) published a first assessment of the use of COVID-19 moratoriums and public guarantees across the EU banking sector ([link](#)).

The European Banking Authority (EBA) published a Report on significant risk transfer (SRT) in securitisation transactions ([link](#)).

The European Banking Authority (EBA) published a package of seven final draft Regulatory Technical Standards (RTS) on the prudential treatment of investment firms ([link](#)).

The European Banking Authority (EBA) launched a consultation on Regulatory Technical Standards (RTS) on the calculation of risk-weighted exposure amounts of collective investment undertakings (CIUs) ([link](#)).

[European Central Bank Recommendation](#) on the distribution of dividends during the COVID-19, which revokes Recommendation BCE/2020/35.

European Banking Authority publishes final draft of technical standards on the impracticability of contractual recognition under the BRRD ([link](#)).

## CAPITAL MARKETS

### I. CMVM

The CMVM published [CMVM Regulation 6/2020](#), [CMVM Regulation 7/2020](#), [CMVM Regulation 8/2020](#) and [CMVM Regulation 9/2020](#) which, among other amendments, provide for a 29% reduction in the duties of regular reporting to the CMVM and affirm simplification as one of the guiding principles of CMVM regulatory policy.

The CMVM published the [Report on Venture Capital Activity](#) for 2019. In the report, it analyses, among others, the topic “Venture capital and bringing dynamism to the market and of company entries onto the stock exchange”. It also looks at the characterisation by the OECD of venture capital in Portugal and sets out its recommendations regarding the relevance of alternative sources of financing to boost companies and the economy.

The CMVM sent a [Circular to the Supervisory Bodies of Public Interest Entities](#) on “the need to reinforce the duty of monitoring the legal review of individual and consolidated annual accounts” in the current context of great uncertainty generated by the SARS COVID-19 pandemic. For this purpose, the CMVM lists exemplary issues, which should be critically analysed by the supervisory bodies in relation to the audit work on the closing of accounts for the financial year 2020.

The CMVM published on its official site [Questions and Answers on Brexit](#) for non-professional investors and entities supervised by the CMVM.

[Ministerial Order 234/2020](#) – Establishes the characteristics of the labels relating to the compulsory insurance policy and the exemption from the insurance obligation, provided for in Decree-Law 291/2007 of 21 August 2007.

[Decree-Law 84/2020](#) – Amends the rules on taking up and pursuing the activity of insurance and reinsurance and partially implements Directive (EU) [2019/2177](#).

**"The CMVM published the Report on Venture Capital Activity for 2019. In the report, it analyses, among others, the topic “Venture capital and bringing dynamism to the market and of company entries onto the stock exchange”."**

## II. European Union

The ESMA published the first statistical report on securities markets in the European Union ([link](#)).

The ESMA published guidelines on portability of information between securitisation repositories under the Securitisation Regulation ([link](#)).

The ESMA issued a public statement clarifying the application of the obligation to trade shares in the European Union after the end of the UK transition in the EU on 31 December 2020. This declaration underlines that trading in shares with a European Economic Area ISIN on a UK trading platform in pounds sterling by EU investment firms will not be subject to the EU STO. This exchange rate approach complements the EEA-ISIN approach outlined in a previous ESMA Statement from May 2019 ([link](#)).

The ESMA updated its statement on UK credit ratings ([link](#)).

The ESMA has issued its Annual Public Statement on European Common Enforcement Priorities in which it asks the European Accounting Authorities to enhance transparency on the impact of the SARS COVID-19 pandemic ([link](#)).

**"The ESMA issued a public statement clarifying the application of the obligation to trade shares in the European Union after the end of the UK transition in the EU on 31 December 2020."**

The ESMA submitted to the European Commission two draft technical standards under the revised regulations on market abuse ([link](#)).

The ESMA published data for the systematic internaliser quarterly calculations for equity, equity-like instruments, bonds and for other non-equity instruments ([link](#)).

The ESMA published its first two reports on the implementation of the Central Securities Depositories Regulation (CSDR) ([link](#)).

The ESMA updated its Brexit statements for the end of the United Kingdom transition period ([link](#)).

The ESMA published its report on post-trade risk reduction services with regard to the clearing obligation ([link](#)).

The ESMA published its first report on the penalties and measures imposed under the AIFMD Directive in 2018-2019 ([link](#)).

The ESMA published its third annual report on the penalties and measures imposed under the UCITS Directive in 2019 ([link](#)).

The ESMA published its third annual statistical report analysing derivatives markets in the European Union ([link](#)).

[Commission Delegated Regulation \(EU\) 2020/1732 of 18 September 2020](#) supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to securitisation repositories.

The ESMA published its Final Report on technical standards (RTS and ITS) under EMIR REFIT ([link](#)).

The ESMA published its final report its guidelines on outsourcing to cloud service providers. The guidelines are intended to help companies identify, address and monitor the risks arising from these outsourcing contracts ([link](#)).

The ESMA published an updated opinion that provides guidelines on the pre-trade transparency waivers for equity and non-equity instruments. This opinion covers guidelines on requests for budgeting systems, guidance on how trading platforms should request a waiver from their national competent authority and updates on issues frequently encountered when assessing waiver notifications ([link](#)).

### III. Insurance

The ASF published its [Register Movement Report](#) for the first half of 2020.

The ASF released a report on the implementation of the measures provided for in Decree-Law No 20-F/2020 of 12 May, which establishes exceptional and temporary arrangements for insurance contracts, with an impact on consumers ([link](#)).

The ASF published its [Report on Regulation and Supervision of Market Conduct](#) and its [Report on Motor Vehicle Claims](#).

[Decree-Law 84/2020 of 12 October](#) – amends the rules on taking up and pursuing the activity of insurance and reinsurance and partially implements Directive (EU) 2019/2177

[Public Consultation 10/2020](#) – under Decree-Law 1/2015 of 6 January, the ASF submitted for public consultation the draft regulations of the legal rules for insurance and reinsurance distribution, approved in an annex to Law 7/2019 of 16 January.

[Regulatory Standard 10/2020-R of 3 November](#) – on the second amendment to Regulatory Standard 8/2016-R of 16 August on the provision of information for the purpose of supervision of the ASF by insurance and reinsurance companies. Subsequently rectified by [Rectification Declaration](#) on 10 December 2020.

[Regulatory Standard 11/2020-R of 3 November](#) – on the provision of information for the purposes of supervision of the ASF by pension fund management companies. Subsequently rectified by [Rectification Declaration](#) on 10 December 2020.

The ASF published its Progress Report on Pension Fund Activity for the third quarter of 2020 ([link](#)).

The ASF has published the 2019 Report on the Insurance Sector and Pension Funds ([link](#)).

[Circular 3/2020 of 10 December](#) on the provision of information concerning the application of the look-through approach to undertakings for collective investment other than collective investment in transferable securities (OICVM).

[Decree-Law 106/2020 of 23 December](#), which approves the transitional arrangements applicable to the provision of financial services by entities based in the United Kingdom. Under this Decree-Law, after the transitional period, insurance companies based in the United Kingdom cease to benefit from the European Union passporting system to be able to carry on insurance business under the freedom of establishment or the freedom to provide services, except if they establish a branch in Portugal that meets the conditions laid down in the legislation on taking up and pursuing insurance and reinsurance activities.

[Circular 5/2020 of 23 December](#), with specific guidelines and recommendations to pension fund managers on dividend distributions or other measures affecting equity in the context of the [SARS COVID-19 pandemic](#). ■