
Iberian Financial Newsletter

Banking and Financial Institutions

April – June 2019



Spain

- > Banking
- > Securities markets and collective investments

Portugal

- > Banking
- > Securities markets and collective investments



SPAIN

Banking

Legislation

Royal Decree 309/2019, of 26 April, partially implementing Law 5/2019, of 15 March, regulating real estate credit agreements and adopting other financial measures. [Access link](#)

The purpose of this Royal Decree is mainly the development of Law 5/2019 transposing Directive 2014/17/EU of the European Parliament and of the Council, of 4 February 2014, on credit agreements concluded with consumers for immovable property for residential use.

It provides the minimum requirements to offer advice services and independent advice. Lenders will not be considered to offer advice service if they only offer their own products. Those providing independent advice must offer at least 3 binding offers from different entities.

It also regulates the overall characteristics of the information to be provided to borrowers during the term of the loan agreement, both from a formal and material perspective, e.g. after each payment of interest and commissions.

With regard to the means to be used for sending the necessary documentation to the notary, this Royal Decree establishes the procedure to be followed, such as the minimum technical requirements.

Order ECE/482/2019 of 26 April amending Order EHA/1718/2010 of 11 June on the regulation and control of advertising of banking services and financial products, and Order EHA/2899/2011 of 28 October on transparency and customer protection of banking services. [Access link](#)

This Order develops certain provisions of Law 5/2019 of 15 March regulating real estate credit agreements and completes the transposition of Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements concluded with consumers for real estate used for residential purposes.

In particular, article 1 of the Order modifies Order EHA/1718/2010, by extending the scope of the advertising rules to lenders and real estate credit intermediaries.

It also amends Order EHA/2899/2011 in relation to precontractual information sheet and the Standardized Warning Sheet ("FiAE" for its acronym in Spanish) for mortgage loans.



It also introduces a section containing the main requirements for staff devoted to inform and to provide advice on mortgage loans. However, it provides for the possibility of providing such services until 16 June 2020 by any staff who have not acquired the minimum training provided for by the Order as long as it is provided under certain supervision.

Bank of Spain Circular 2/2019, of 29 March, on the requirements of the Information Document on Commissions and Commission Status, and payment account comparison websites, and amending Circular 5/2012, of 27 June, to credit institutions and payment service providers, on transparency of banking services and liability in granting loans. [Access link](#)

This new Circular 2/2019 seeks greater consistency in the legal framework applicable to payment service providers and website operators comparing payment services.

In particular, the Circular establishes the obligation to provide current and potential customers with the 'Commission Information Document' free of charge, sufficiently in advance of the conclusion of a payment account contract. This document will indicate the most representative services related to a payment account, together with their corresponding fees, in a standardised manner under the terms set out in the Circular.

In the same manner, the annual delivery obligation is specified for a Fees Statement indicating all the fees incurred by the customer during the calendar year for the services related to a payment account and the corresponding interests.

Likewise, for the purpose of facilitating the exercise of the functions entrusted to the Bank of Spain, the Circular implements a periodic reporting system to which payment service providers must comply in order to provide information regarding the amounts of the fees they charge for their services.

The Circular regulates the declaration of responsibility that must be submitted by any operator seeking to establish a website that facilitates comparison between the fees of services linked to payment accounts applicable by different providers to the Bank of Spain.

Proposals

Draft Circular of the Bank of Spain for specialized credit institutions (*establecimientos financieros de crédito*) on reporting and financial statements. [Access link](#)

The purpose of the draft Circular is to provide a specific accounting regime for specialized credit institutions (*establecimientos financieros de crédito*), aligned with the regime set out for credit institutions.



The accounting regime follows the IFRS adopted by the EU, including in particular IFRS-EU 9 (expected loss model).

The expected date for the entry into force will be 1 January 2020.

Public consultation on Circular amending Circular 1/2013 on Central Credit Register. [Access link](#)

This draft Circular intends to update the regime of the Central Credit Register of the Bank of Spain (CIR) to Law 5/2019, on credit agreements concluded with consumers for immovable property for residential use.

The scope of the reporting entities is extended to include lenders of mortgage loans and entities operating in Spain without permanent establishment.

The regime is also updated to AnaCredit Regulation (Regulation EU 867/2016).

Securities market and collective investment

Supervision criteria

Opinion of the European Securities and Markets Authority of 23 May 2019 on the binary options product intervention measure proposed by the CNMV. [Access link](#)

ESMA has issued a favorable opinion on the product intervention measure taken by the CNMV, consisting of a permanent prohibition on the marketing, distribution or sale of binary options to retail customers in or from Spain.

ESMA has considered that this measure is justified and proportional, pointing out that it is necessary for the national authorities of other Member States to take intervention measures for products that are at least as restrictive as the ESMA measure.

Proposals

Proposal for a Technical Guide on the procedures for selecting intermediaries for Collective Investment Schemes Management Companies (SGIIC for its acronym in Spanish). [Access link](#)

This draft Technical Guide prepared by the CNMV contains certain rules relating to the procedures for the selection of financial intermediaries and counterparties involved in the execution of Collective Investment Schemes operations, as well as criteria regarding the delegation of this activity.



The draft also determines which practices do not comply with the obligation of the management entities.

PORTUGAL

Banking

Legislation

Regulation of the Bank of Portugal No. 2/2019 – Official Journal No. 100/2019, Series II, Part E, of 24-05-2019. [Access link](#)

It sets, for the purposes of Regulation (EU) No 575/2013 of the European Parliament and of the Council, of 26 June 2013, on prudential requirements for credit institutions and investment firms, and its supplementing regulation, the thresholds as to the significant nature of the risk exposures over retail portfolios and of the risk exposures that are not exposures over retail portfolios.

Instruction No.9/2019 – Official Bulletin No.5/2019, 3rd Supplement, of 05-06-2019. [Access link](#)

It discloses, for the 3rd quarter of 2019, the maximum rates that can be used in consumer financing agreements in the context of Decree-Law No. 133/2009, of 2 June 2009.

Securities markets and collective investments

Legislation

CMVM Regulation No. 5/2019 – Official Journal No. 122/2019, Series II of 28-06-2019. [Access link](#)

It restrains the marketing, distribution and sale of contracts for differences and prohibits the marketing, distribution and sale of binary options in Portugal to non-professional investors, implementing into national law the ESMA Decisions (EU) 2018/1636 and 2018/2064 which, respectively, restrain the marketing of contracts for differences (CFDs) and prohibit, temporarily, the marketing of binary options in all of European Union's territory.



CMVM Regulation No. 4/2019 – Official Journal No. 65/2019, Series II of 02-04-2019.

[Access link](#)

It amends CMVM Regulation No. 3/2007, on Regulated Markets and Multilateral and Organized Trading Systems.

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