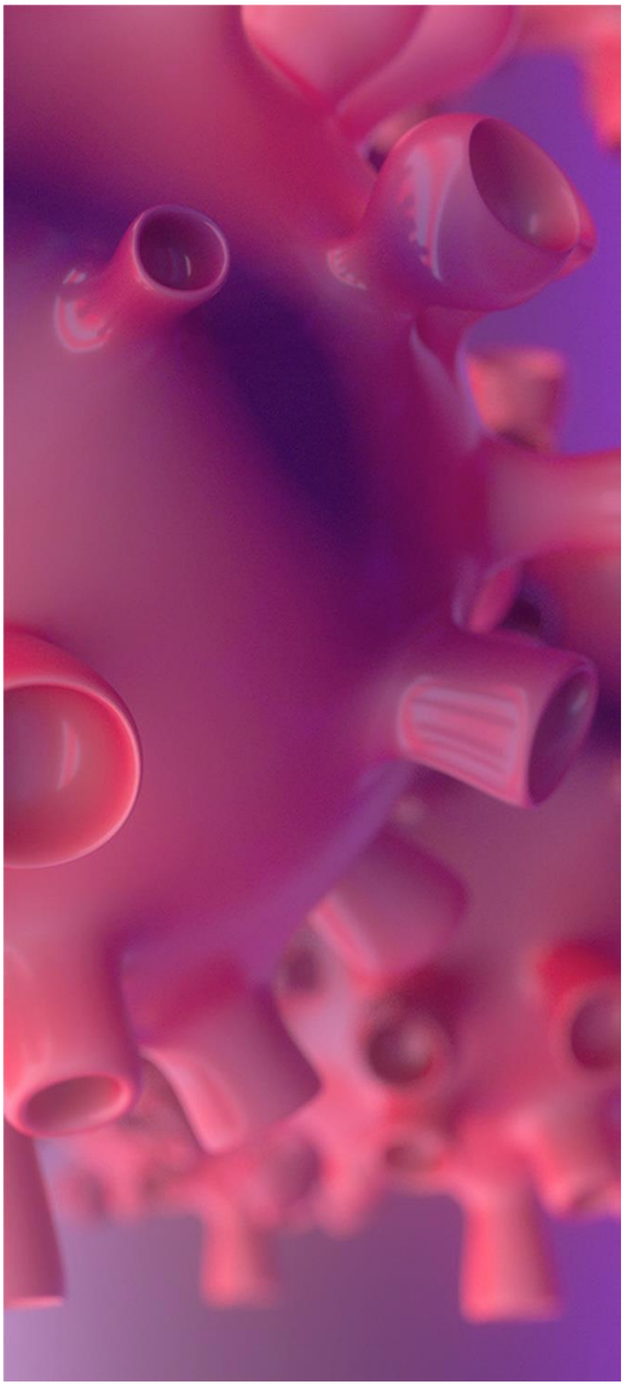
COVID-19 (No. 5): Banking, Finance and Capital Markets

Legal Flash | Portugal

March 18, 2020



› **COVID-19: Measures for the financial sector**

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Following the COVID-19 outbreak and its foreseeable impact on the economy, measures aimed at mitigating the effects on the financial sector have been adopted. Specifically, the measures aim to preserve financial stability so the financial sector can continue financing the economy.

Summary of measures:

(i) Legislative measures

Under Decree-Law 10-A/2020, of March 13, the general shareholders meetings of all companies, associations and cooperatives that are required by law or by their articles of association can be postponed until June 30, 2020.

This measure should also include credit institutions, financial companies and other financial institutions, as well as public companies, particularly those with shares admitted to trading on a regulated market and supervised by CMVM.

On March 18, the Government announced that it was preparing legislative measures to be adopted until the end of March, allowing the suspension or postponement of any principal and interest that companies owe to credit institutions under credit agreements. The Portuguese Banks Association and Banco de Portugal are still discussing the details of this measure.

(ii) European Central Bank (Single Supervisory Mechanism)

On March 12, the European Central Bank (ECB) announced the implementation of measures to provide relief to the capital ratios of its supervised institutions (significant institutions). We highlight some of these measures below:

- Possibility of operating with levels of capital below the recommended amount (Pillar 2 Guidance), the capital conservation buffer and the liquidity coverage ratio (LCR).
- Relaxation of Pillar 2 requirements, allowing the use of capital instruments AT1 or T2 by bringing forward a measure included in the revision of the CRD V on the use of specific capital instruments.
- ECB to consider operational flexibility in the implementation of bank-specific supervisory measures such as rescheduling on-site inspections.

Despite these measures, the ECB stresses that institutions should continue to apply sound underwriting standards, pursue adequate policies regarding the recognition and coverage of non-performing exposures, and conduct solid capital and liquidity planning and robust risk management.

(iii) European Central Bank

On March 12, to maintain broad liquidity conditions in the financial system, with an extended deadline and more favorable conditions, the ECB announced several significant measures, including the following:

- Weekly longer-term refinancing operations (LTROs), between March and June, at a deposit facility rate (-0.50%), with full satisfaction of demand;
- The parameters of the third series of targeted longer-term refinancing operations (TLTRO III) were modified, with a reduction of 25 basis points of the rate applicable to these operations between June 2020 and June 2021, allowing for the applicable rate of -0.75% for banks that reach the lending benchmark; and
- Simultaneously, the maximum total amount available under the TLTRO III for each bank was increased and is now 50% of their stock of eligible loans.

The TLTRO III measures were approved through Decision (EU) 2020/407 of the ECB of March 16, 2020, amending Decision (EU) 2019/1311 on a third series of TLTROs (ECB/2020/13).

Today ECB has announced a new temporary asset purchase programme to counter the serious risks to the monetary policy transmission mechanism and the outlook for the euro area. This new package, named Pandemic Emergency Purchase Programme (PEPP) will have an overall envelope of € 750 billion, will be conducted at least until end of 2020 and will include all the asset categories eligible under the existing asset purchase programme.

ECB has further announced that it will expand the range of eligible assets under the corporate sector purchase programme (CSPP) to non-financial commercial paper, as well as that it will ease the collateral standards by adjusting the main risk parameters of the collateral framework for Eurosystem's refinancing operations.

Finally, the ECB has stated that it "will do everything necessary within its mandate", that it is fully prepared to increase the size of its asset purchase programmes and adjust their composition and that it will consider revising any self-imposed limits that might hamper action that the ECB is required to take to fulfil its mandate.

(iv) Banco de Portugal

On March 16, Banco de Portugal published Circular Letter CC/2020/00000017 announcing a set of measures applicable to less significant credit institutions. These measures relax the regulatory and supervisory requirements to help banks during the contingency situation arising from the COVID-19 outbreak.

This circular letter follows a statement from the European Banking Authority of March 12 on actions to mitigate the impact of the outbreak.

We highlight the following measures:

- Temporary operation under the recommended capital levels (Pillar 2 Guidance) and the combined capital buffer, with liquidity levels below the LCR.
- Postponement of stress test exercises foreseen for 2020.
- Suspension or postponement of inspections on matters of conduct, prudential and anti-money laundering and terrorist financing supervision, except for urgent situations.
- Postponement of requests for information required under the Supervisory Review and Evaluation Process (SREP).
- Postponement or canceling of certain reporting, namely the ICAAP, ILAAP, internal control report, AML report, and the report on transfers to offshore jurisdictions.
- Extension of deadlines to settle complaints.
- Relaxation of account opening requirements through videoconference.

Banco de Portugal also called for all institutions to fully comply with their duties regarding communication of any events causing a negative impact that is significant for its income or equity. It particularly highlights the duties applicable to entities authorized to receive deposits from the public.

(v) European Investment Bank

On March 16, the European Investment Bank Group, including the European Investment Fund, announced a proposal to make available €40 billion to banks to combat the economic effects of the COVID-19 outbreak. The total amount of financing will be divided into three packs:

- €20 billion allocated to guarantee schemes for banks based on existing programs;
- €10 billion allocated to liquidity lines for banks to ensure additional working capital support for SMEs; and
- €10 billion allocated to asset-backed securities purchasing programs to allow banks to transfer risk on portfolios of SME loans.

(vi) European Securities and Markets Authority (ESMA)

(a) Recommendations

On March 11, following an examination of the market situation and the contingency measures taken by supervised entities, ESMA announced the following recommendations to financial market participants:

- Preparation for the application of contingency plans, including deployment of business continuity measures, to ensure operational continuity in line with regulatory obligations;
- Immediate disclosure of any significant information concerning the impact of COVID-19 on their fundamentals, prospects or financial situation according to their transparency obligations under the Market Abuse Regulation;
- Reporting on the actual and potential impact of COVID-19 on their business activities, financial situation and economic performance in their 2019 year-end financial reports; and

- For asset managers, continuous application of requirements on risk management.

(b) Net short positions reporting threshold

On March 16, ESMA announced a decision with immediate effect that lowers the reporting threshold for notifying net short positions in shares traded on an EU regulated market to the national competent authorities (in Portugal, CMVM).

The notification threshold was temporarily established at 0.1% of the share capital of a company with shares admitted to trading on a regulated market.

(vii) European Insurance and Occupational Pensions Authority (EIOPA)

On March 17, the EIOPA issued a statement on mitigating the impact of COVID-19 on the European Union insurance sector.

The EIOPA warns that insurers should be ready to implement the necessary measures to ensure business continuity and to continue to provide services to their clients.

To grant operational relief, EIOPA notes that:

- national authorities (in Portugal, ASF) should be flexible regarding the timing of applicable supervisory reporting and disclosures;
- requests for information and consultations to the industry should be limited to essential elements needed to assess and monitor the impact of the current situation on the market; and
- the deadline of the Holistic Impact Assessment for the 2020 Solvency II Directive Review is extended to June 1, 2020.

To protect the interests of the insured, EIOPA also stated that insurance companies should take measures to preserve their capital position, following prudent dividend distribution policies and variable remuneration.

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