LINKLATERS ADVISING ON BES RESTRUCTURING

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Linklaters is advising Banco Espírito Santo (BES) on its restructuring following the recent announcement that the bank had suffered a €3.6 billion loss.

The firm is also advising Novo Banco, the new bank set up to receive assets and liabilities - including customer deposits and senior debt - from BES.

BES´ losses were partly due to exposures to companies associated with the Espirito Santo family interests. A number of those companies have commenced various protective proceedings in Luxembourg and Portugal. These losses reduced BES´ tier 1 capital, as at 30 June 2014, to below the minimum regulatory threshold.

Novo Banco will be owned by the Portuguese bank resolution fund which has provided €4.9bn of capital for the new entity. The excluded assets and liabilities – which have all been left in BES – principally relate to banking relationships with the companies associated with the Espirito Santo famil. The subordinated debt of BES and any liabilities associated with the prior capital raising activities of BES and the Espirito Santo Group companies will also be left in BES. The shareholders in BES will remain as shareholders in that company.

The Linklaters team advising BES and Novo Banco include Lisbon partners António Soares and Pedro Siza Vieira and London partner David Ereira. The matter is ongoing and will involve further arrangements for the separation of the bank´s assets.

Ereira said: “The plan creates an effective “bail-in” of shareholders and subordinated note holders with no expected costs for Portuguese taxpayers. It was carried out with the support of the European Central Bank and the European Commission making this a landmark case which is being seen as a leading indicator of how the European bank resolution scheme will operate going forward.”

The restructuring of BES comes as the European Central Bank is conducting comprehensive balance sheet assessments – incluiding asset quality reviews and stress tests – of the most significant Eurozone banking groups before taking on new banking supervision tasks as part of a ´Single Supervisory Mechanism´ in November 2014.