

NEW LEGAL FRAMEWORK FOR CREDIT INSTITUTIONS - EDUARDO PAZ FERREIRA & ASSOCIADOS

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The Portuguese Government has adopted Decree-Law No 157/2014, of 24 October, which establishes a new national legal framework for credit institutions. This new Act amounts to an important and far-reaching revision of the existing rules for financial activities in Portugal, including revising the Portuguese Securities Code, which regulates the capital markets.

In accordance with the requirements of the EU Directive, this new legislation is drafted so as to ensure that Portuguese credit institutions comply with high standards in a wide range of areas. Accordingly, these institutions must have internal capital that is adequate in quantity, quality and distribution. They must also have strategies and procedures in place for assessing and maintaining the adequacy of their internal capital.

The supervision of institutions on a consolidated basis aims to protect the interests of depositors and investors. They must introduce principles and standards to ensure effective oversight by the

management body, promoting a sound risk culture at all levels of their credit activities and enabling competent authorities to monitor the adequacy of internal governance arrangements. Remuneration policies must be aligned with the risk appetite, values and long-term interests of the credit institution. New rules are established to strengthen the specific framework for sanctions and punishment, in order to prevent and discourage fraud.

The initial Portuguese Legal Framework of Credit Institutions and Financial Companies was approved 22 years ago by Decree-Law No. 298/92. Since then, it has been the subject of many amendments. The original Act established a number of conditions for the pursuit of the business of credit institutions and financial companies but these were growingly considered unsatisfactory.

The recent problems in the banking sector clearly demonstrated the existence of deep-rooted regulatory shortcomings that needed to be addressed. Furthermore, Portugal had to respond to the adoption of the new EU Legal Framework, Directive No. 2013/36/EU, of 26 June. This directive coordinates national provisions concerning access to the activity of credit institutions and investment firms, the modalities for their governance, and their supervisory framework.

In light of these developments, the Portuguese Government adopted Decree-Law No 157/2014, which establishes the new national legal framework.

Overall, the new law represents a legal commitment which is taken on to ensure the capacity, the confidence and the stability of the Portuguese financial system.

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