THE SALE OF REO ASSETS BY FINANCIAL INSTITUTIONS

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The term REO (real estate owned) is used to refer to assets that were once held as collateral for loans made by financial institutions and were subsequently acquired by the same or different financial institutions by means of foreclosure, mortgage foreclosure or bankruptcy.
In the aftermath of the global real estate crisis, financial institutions were forced to hold REO

properties on their balance sheets. Although financial institutions are trying to profit from the individual sale of properties via their websites, often offering more attractive financing to buyers, this has not been enough for them to be able to sell all REOs. Faced with this situation, financial institutions that need to sell REO properties are having to ensure they are managed by other parties

Therefore, there is a steady rise in the number of REOs placed on the market by financial institutions. In this respect, there is a growing need for financial institutions to organise REOs, not only in terms of legal due diligence, but also when it comes to selecting the appropriate real estate broker who will assist with the evaluation and placement on the market, and in doing so, try to maximise the market value of the properties. Done in a timely manner, this strategy will allow financial institutions to group the properties by segments, allowing them to create attractive portfolios for investors and potential buyers.

Law firms – through their tax, real estate, banking and corporate departments – have played a crucial role in advising financial institutions on how to best get REO off their balance sheets.

Once the sale strategy for REOs has been chosen, law firms should prepare the corresponding NDA, advise on all issues related to due diligence, advise the financial institution on issues regarding possible correspondence on the right of pre-emption, draw up the sale and purchase agreement (SPA) or other transaction structures, as well as assist in negotiations aimed at closing the transaction.

Only recently have financial institutions in Portugal begun to organise the sale of these REOs. Few financial institutions were selling property portfolios – however, as time goes by, there is going to be a growing need for almost all the financial institutions to go through this process.

Nevertheless, given the increasing sale of NPLs (non-performing loans), there will be a downward trend in the acquisition of these assets by financial institutions.

Edmundo Batalha Reis is a partner at SPS Advogados. He can be reached at edmundo.reis@spsadvogados.com