



## New rules applicable to credit transactions

### SUMMARY

As of 5 September 2013, credit institutions and financial companies will be subject to new rules which will limit default interest rates to 3% plus the agreed interest rate, allow the capitalisation of interest for minimum periods of one month and prohibit any fees charged on the ground that the borrower defaulted its obligations.

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The Government passed Decree-Law no. 58/2013, of 8 May 2013 (**New Law**) which reviewed and updated the legal framework of credit transactions in what concerns the calculation of interest, the default interest rate, the capitalisation of interest and the default by the borrower.

The new rules will apply to all credit transactions (including among other things consumer loans, mortgage and corporate loans) entered into by credit institutions, financial companies, payment institutions, electronic money institutions and other entities legally authorised to grant credit and that are subject to the supervision of the Bank of Portugal.

Among the rules approved by the New Law the following should be highlighted:

- In the event of default by the borrower, the institutions may not charge an interest rate higher than 3% plus the interest rate set out in the agreement, such rate being applicable to the principal amount due and not paid (including any capitalised interest);
- If agreed in writing, the institutions may capitalise any unpaid interest for periods of 1 month or more;
- The institutions may only capitalise default interest if agreed in writing and within a restructuring or consolidation of credit transactions; and
- No fees may be charged on the ground that the borrower defaulted its payment obligations although institutions may charge fees for recovery of any amounts due and not paid, which in any case cannot exceed 4% of such amounts (with a minimum of €12 and a maximum of €150) or 0.5%, if the unpaid sum exceeds €50,000.

The institutions that breach any of the above rules will be deemed to have committed an administrative offence and will be subject to the payment of a fine which could range between €3,000 and €1,500,000 and ancillary sanctions.

The new rules will apply not only to credit transactions and agreements executed after the entry into force of the New Law, but also to events of default under credit transactions and agreements already in place on the date of publication of the New Law that occur after the entry into force of the New Law.

As a result of the approval of the new legislation, lenders should review and, when needed, amend their existing credit arrangements and adapt their standard agreements to the rules set out in the New Law.

The New Law will enter into force on 6 August 2013 but the rules described above will only enter into effect on 5 September 2013.

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