

NEW RULES ON COMMERCIAL PAPER

André Dias and Guilherme Portes

The Government enacted Decree-Law 102/2026, which amended the commercial paper legal framework approved by Decree-Law 69/2004, with a view to making this financing instrument more attractive to both companies and investors.

The key measures include the reduction of the maximum term of commercial paper, the new prior notification regime, the elimination of the obligation to engage a financial intermediary, and the removal of the exemption from the Portuguese-language requirement.

I. MAIN AMENDMENTS

A. Reduction of the maximum maturity

Decree-Law 69/2004 defined commercial paper as a debt security issued with a term equal to or less than 397 days, which allowed issues with a term slightly longer than one year.

The new decree-law reduces the maximum term, requiring that issues have a maturity of less than one year, as was the case in the original version of Decree-Law 69/2004, thereby reinforcing the nature of commercial paper as a short-term financing instrument.

B. Prior notification

Decree-Law 69/2004 provided that the information memorandum (*nota informativa*) for a public offer of commercial paper was subject to approval by the Portuguese Securities Market Commission (the “CMVM”), and that this approval could cover either a single issue or an issuance programme.

An offer was classified as a public offer under articles 109 and 110 of the Portuguese Securities Code. However, an offer would be classified as a private offer if the commercial paper had a unit nominal value equal to or greater than €50,000.

With the approval of Decree-Law 102/2026, the information memorandum for the offer of commercial paper will be subject to prior notification to the CMVM when:

- it is addressed, in whole or in part, to an indeterminate group of recipients;
- it is, in whole or in part, preceded or accompanied by market research or the collection of investment intentions from an indeterminate group of recipients or by advertising; or
- it is addressed to more than 150 non-professional investors with residence or establishment in Portugal.

Accordingly, unlike the previous regime, an offer of commercial paper with a unit nominal value equal to or greater than €50,000 is no longer automatically exempt from the prior notification requirement and may become subject to it if it falls within the situations referred to above.

CMVM approval is no longer required and the issuance may proceed if the CMVM does not notify the issuer of its opposition to the information memorandum within 10 business days.

C. Elimination of the obligation to engage a financial intermediary

The previous regime required that public offers of commercial paper be carried out with the intervention of a financial intermediary legally authorised for that purpose.

In these offers, the financial intermediary was required to provide assistance and placement services as well as all financial services arising from the issue, including payments.

For private offers of commercial paper issued by entities without legal certification or an audit of accounts carried out by a ROC or a ROC firm, the regime required the intervention of either a financial intermediary or an issuance sponsor.

Decree-Law 102/2026 revoked the requirement for a financial intermediary. However, it continues to provide that offers of commercial paper issued by entities without legal certification of accounts or audit of the accounts must have an issuance sponsor, who must carry out the prior verification of the issuance requirements.

It should be noted that only the following may act as sponsors of a commercial paper issue: (i) credit institutions; and (ii) issuers of securities admitted to trading on a regulated market that hold a controlling interest in the issuer.

D. Use of the Portuguese Language

The previous regime provided that the information memorandum for a private offer was not subject to the provisions of Article 6 of the Portuguese Securities Code. This article establishes that

information addressed to investors must be drafted in Portuguese or accompanied by a translation into Portuguese, and the CMVM may waive, in whole or in part, the translation when it considers that the interests of investors are safeguarded.

Decree-Law 102/2026 revoked that rule, with the result that article 6 of the Portuguese Securities Code now applies to all commercial paper offers, including private offers that were previously exempt.

2. IMPACT OF THE AMENDMENTS

Commercial paper has been widely used as a short-term financing instrument by companies, particularly medium and large ones, although mostly through private offers subscribed by credit institutions.

Public offers have been less frequent, largely due to the requirements for approval of the information memorandum and the involvement of a financial intermediary.

The Government's efforts to encourage public offers — through the reduction of approval requirements and the elimination of the need for a financial intermediary — are to be acknowledged. However, the new regime may not be sufficient to attract companies and investors: prior notification to the CMVM and an issuance sponsor are still required, and offers with a unit value equal to or greater than €50,000, previously exempt, are now potentially subject to the prior notification regime.

Ultimately, only practice will show whether these measures have effectively made commercial paper more attractive.

© 2026 MACEDO VITORINO

ABOUT MACEDO VITORINO

MACEDO VITORINO is a leading Portuguese law firm. We advise domestic and foreign clients in a wide range of business sectors, including banking, distribution, industry and projects. We are known for our professional and client-oriented approach to complex and difficult matters.

Since the incorporation of the firm in 1996, we have been involved in several high-profile transactions in all of the firm's fields of practice, including banking and finance, capital markets, corporate and M&A, energy, real estate, project finance, complex disputes and restructurings.

IMPORTANT INFORMATION

The opinions expressed in this article are of a general nature and should not be considered professional advice. Should you require legal advice on these matters, you should contact a lawyer. If you are a client of MACEDO VITORINO, you may contact us by email at mv@macedovitorino.com.