

## Notice of Banco de Portugal

No 3/2016

### Voluntary reciprocity

In accordance with the current legal framework, specifically Article 16-A of the Organic Law of Banco de Portugal, approved by Law No 5/98 of 31 January 1998, Banco de Portugal, as the national macroprudential authority, is responsible for proposing and adopting measures to prevent, mitigate or reduce systemic risks in order to strengthen the resilience of the financial sector.

The Legal Framework of Credit Institutions and Financial Companies, approved by Decree-Law No 298/92 of 31 December 1992, also establishes that, as the national macroprudential authority, Banco de Portugal is the competent authority to apply, among other measures and requirements, Title VII-A of the Legal Framework of Credit Institutions and Financial Companies and Article 458 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 [Regulation (EU) No 575/2013].

As the financial system in the European Union is highly integrated, a specific institution having its head office in a specific Member State may carry on activities in another Member State either directly or through subsidiaries and branches. Branches of institutions with their head office in other European Union countries, operating in a country that has adopted a macroprudential measure, may not be required to comply with this measure. As a result, these branches may contribute to amplifying systemic risks in the country adopting the measure. Coordination between Member States is therefore crucial for the effectiveness of macroprudential measures. To this effect, on 15 December 2015 the European Systemic Risk Board published Recommendation No 2015/2, introducing the concept of voluntary reciprocity – meaning the voluntary adoption by the national competent or designated authority of the same, or equivalent, measure, as it is set out by the competent or relevant authorities in another jurisdiction in respect to the risk exposures in that Member State.

Without prejudice to other provisions for the recognition of macroprudential measures laid down in the applicable laws and regulations, Article 458(5) of Regulation (EU) No 575/2013 establishes that any stricter measures that have been adopted by the competent or designated authorities of other Member States, to address systemic risks with the potential to have serious negative consequences on the financial system and the real economy, may be recognised in national law and applied to branches of institutions located in the Member State that has adopted this stricter measure.

Considering the above, this Notice establishes Banco de Portugal's disclosure framework regarding the decisions on voluntary reciprocity that Banco de Portugal may adopt as the national macroprudential authority.

Under these terms, Banco de Portugal, exercising the powers conferred on it by Articles 16-A and 17 of its Organic Law and Article 138-A of the Legal Framework of Credit Institutions and Financial Companies, establishes the following:

## Article 1

### **Subject matter and scope**

1 — This Notice regulates the disclosure of national measures adopted by Banco de Portugal, as the macroprudential authority, under a decision on voluntary reciprocity for macroprudential measures applied by competent or designated authorities of other Member States in order to eliminate or reduce systemic risks.

2 — This Notice is without prejudice to the validity and effectiveness of other macroprudential measures whose reciprocation is already provided for in other applicable law and regulation.

3 — This Notice applies to credit institutions and investment firms subject to prudential supervision under Regulation (EU) No 575/2013.

## Article 2

### **Content and frequency of disclosure**

1 — As regards the national measures established by Banco de Portugal in order to ensure the recognition of voluntary reciprocity regulated by this Notice, Banco de Portugal shall, where applicable, disclose the following on its website by the last day of the month:

- (a) Disclosure of the measure adopted by the competent or designated authority of another Member State whose reciprocity the national measure aims to ensure, with information on the location where such a measure is published;
- (b) Disclosure and description of the national measure that is recognised and adopted by Banco de Portugal under a decision on voluntary reciprocity, including its scope;
- (c) The date of entry into force of the national measure;
- (d) The date of expiry of the national measure, or the reference stating the national measure shall expire on the date when the measure adopted by the competent or designated authority of a Member State, whose reciprocity is to be ensured, ceases to be in force;
- (e) Other information regarding the subject matter of this Notice, whenever deemed relevant.

2 — The content of the disclosure referred to in the foregoing paragraph may cover one or more national measures aimed at recognising the reciprocity of measures adopted by competent or designated authorities of other Member States and the repeal or amendment of any national reciprocity measure previously adopted by Banco de Portugal.

## Article 3

### **Repeal and amendment of reciprocity measures**

Without prejudice to the foregoing Articles and irrespective of the specific period to be covered by the measure whose reciprocity is to be ensured, Banco de Portugal may at any time immediately revoke or amend any national reciprocity measure whose disclosure is ensured under this Notice.

## Article 4

### **Entry into force**

This Notice enters into force on the day following that of its publication.

29 April 2016. — the Governor, *Carlos da Silva Costa*.