



BANCO DE PORTUGAL  
EUROSYSTEM

# BANKING CONDUCT SUPERVISION REPORT

2013

Executive Summary





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## Executive summary

In its annual Banking Conduct Supervision report, Banco de Portugal provides details on its activity in overseeing retail banking markets and promoting financial information and education. It also analyses developments in the legal and regulatory framework and ongoing discussions in different international fora on bank customer protection.

In the exercise of its banking conduct supervision function, Banco de Portugal monitors the conduct of credit institutions, financial companies, payment institutions and electronic money institutions in retail banking markets, where deposits, credit products and payment services are traded, in line with the provisions of applicable laws and regulations.

Banking conduct supervision is an essential pillar of financial system stability. Banco de Portugal's intervention in this field is limited by legal provisions. Banco de Portugal may only issue regulations in the cases and conditions expressly set out in the law, and has no powers to oversee the performance of credit institutions when these are engaged in areas such as financial intermediation or insurance mediation, nor can it intervene in aspects related to trade relations between the institutions and their customers that are not regulated by rules under its scope. Banco de Portugal cannot issue opinions on the validity of contracts.

The instruments used by the Bank in the performance of its supervisory functions are those established by the law. When analysing complaints, Banco de Portugal may require the correction of non-compliance and may sanction severe misconduct by credit institutions; as required by the law, courts or arbitral authorities shall be responsible for reparation of harm arising from irregularities on the part of credit institutions.

The Banking Conduct Supervision Report of 2013:

- Addresses the main issues on the agenda of international banking conduct supervision fora (Chapter I);
- Evaluates the implementation of amendments to the legal framework applicable to retail banking markets (Chapter II);
- Presents the financial information and education projects carried out (Chapter III);
- Summarises banking conduct supervisory activities (Chapter IV).

The report also includes a summary of legislative and regulatory initiatives and of the international agenda.

### **Amendments to the legal framework applicable to retail banking markets**

In 2013 important amendments were introduced to the legal and regulatory framework applicable to retail banking markets. These amendments widened bank customers' rights and guarantees, posing major challenges to Banco de Portugal in its monitoring of credit institutions.

### **Prevention and management of arrears**

In 2013, in a particularly demanding economic context for households, the general regime on the prevention and settlement of arrears and the extraordinary regime for protecting home loan borrowers in very difficult situations were implemented and the Assistance Network for Indebted Consumers (ANIC) was created. ANIC helps bank customers to renegotiate credit agreements in arrears free of charge.

With an impact on the management of credit in arrears, the revision of the arrears interest on banking transactions regime established rules and limits to the fees associated with instalments in arrears and a ceiling for the arrears interest surcharge. The extension of the home loans regime to other credit agreements secured by mortgage ensured that the rights granted by this regime are also applicable to the consolidation of home loans with other types of credit usually concluded for consumer purposes. The consolidation of home loans with other types of credit is frequently used by customers with credit in arrears. In its report, Banco de Portugal presents the main indicators related to the implementation of the arrears regimes, based on data reported by credit institutions. As a result of credit institutions' improved reporting systems, it is now possible to update data released for the first half of 2013.

The arrears regimes establish the rights and duties of customers experiencing difficulties in complying with their home loan and/or consumer credit agreements. This legal framework comprises a general regime, establishing measures to prevent arrears situations (a Pre-arrears Action Plan – PRAP) and the out-of-court settlement of arrears situations (Out-of-court Arrears Settlement Procedure – OASP) on credit agreements, and an extraordinary regime for protecting home loan borrowers in very difficult situations.

There are therefore two complementary procedures in the mortgage credit market for the out-of-court settlement of arrears situations: the OASP, regulated by the general regime, and the extraordinary regime. A growing number of credit agreements have been included in the general regime as credit institutions have been adopting a more pro-active and swift approach to the prevention and management of arrears. The implementation of the extraordinary regime, in turn, has reflected the demanding access conditions and the fact that it depends on bank customers' initiative. The slowdown in the number of requests

to access this regime throughout the year also reflects the gradual inclusion of credit agreements in arrears into the general regime.

Up to the end of 2013, credit institutions had initiated 182,016 procedures (OASP and extraordinary regime), on their own initiative or at the request of their customers, with a view to settling arrears on 147,808 mortgage credit agreements; 91 per cent of the procedures had been concluded by the end of the year. Arrears were settled in 42.1 per cent of the procedures concluded. The share of procedures concluded with the settlement of arrears rose from 34.1 per cent in the first half of 2013 to 55.4 per cent in the second half.

As regards consumer credit, the out-of-court settlement of arrears is regulated by the general regime, through OASP. In 2013 657,948 OASP procedures were initiated, covering 570,823 consumer credit agreements; 90 per cent of the procedures had been concluded by year-end. Arrears were settled in 33.6 per cent of the procedures concluded.

In the course of the year, the share of the procedures concluded also increased in consumer credit, with the settlement of arrears rising from 29.5 per cent in the first half of 2013 to 40.4 per cent in the second half.

### **Consumer credit**

In the consumer credit regime, the amendments have been particularly significant in the provisions related to credit cost. The methodology for calculating maximum rates has been revised and the scope of application of these rates has been widened to cover all bank overdrafts and overruns, whose fees have been forbidden. The change in the rule for calculating maximum rates has led APR to move closer towards the average market rates and has reinforced the decline of the maximum rates of credit cards and of other revolving credit. The maximum rate on revolving credit declined from 37.3 per cent at the end of 2012 to 24.2 per cent at the end of 2013.

### **Basic bank accounts**

In 2013 the revision of the legal framework of basic bank accounts was implemented. The number of basic bank accounts tripled (9,646 accounts at year-end). Around 20 per cent of these were opened by converting existing deposit accounts. The increase in the number of basic bank accounts was also due to the reinforcement of the duties of member credit institutions to make known to the public their decision to provide these accounts as well as their access conditions.

### **Payment services**

In February 2013 Banco de Portugal communicated to institutions that, in order to comply with principles of transparency and proportionality, the fees applicable to the acceptance of payment cards should correspond exclusively to the nature of the transaction (debit or credit) and not to the type of card used.

### **Supervisory activities**

The oversight strategy developed by Banco de Portugal relies on the use of a complete set of tools: systematic monitoring, inspections and complaints analysis. Whenever irregular situations or arrears are detected, Banco de Portugal issues recommendations and specific orders and may open administrative proceedings.

In 2013 Banco de Portugal had to reinforce its inspections in order to monitor compliance with the new legal and regulatory framework of retail banking markets.

The increase in complaints against credit institutions received by Banco de Portugal, in the context of the new rights of bank customers, also required further supervisory efforts.

### **Systematic monitoring**

In 2013 Banco de Portugal analysed 6,900 advertising campaigns on banking products and services, and issued 94 recommendations and specific orders for their correction.

Banco de Portugal assessed 159 information leaflets on indexed and dual deposits before they were sold. The number of indexed and dual deposits sold grew considerably from the previous year.

Banco de Portugal also assessed compliance with maximum rates in all new consumer credit agreements and monitored the fees and price lists reported by credit institutions, including the implementation of amendments to the legal framework in force with reflections on products and services fees.

### **Inspections**

In 2013 Banco de Portugal conducted 1,403 inspections on credit institutions; more than half aimed to assess the implementation of amendments to the new legal and regulatory framework.

### **Management of complaints**

In 2013 Banco de Portugal received 17,911 complaints from bank customers against credit institutions, i.e. 15 per cent more than in 2012, when it had already recorded a 6 per cent increase, reversing the slowdown observed in the previous two years.

The increase in complaints against credit institutions was chiefly due to complaints on consumer credit and home loans, and based on overindebtedness cases within the scope of the general regime for prevention and settlement of arrears situations. Banco de Portugal detected no signs of infringement by credit institutions subject to complaint in 48 per cent of the cases, which represents an increase from 2012. This was essentially due to the fact that no signs of infraction were detected in 72 per cent of the complaints falling within the scope of the arrears regime, which accounted for a significant proportion of total complaints closed.

### **Analysis of draft credit agreements**

In 2013 Banco de Portugal monitored 365 draft credit agreements of 136 credit institutions on personal and car credit products. Based on the draft credit agreements with household customers that credit institutions are obliged to report, Banco de Portugal performed an assessment on whether these agreements complied with the legal and regulatory rules governing the banking activity.

### **Correction of irregularities and sanctions**

Following its monitoring activities, in 2013 Banco de Portugal issued 1,030 recommendations and specific orders, requiring credit institutions to correct detected irregularities. Among these recommendations and specific orders, 500 resulted from assessing the implementation of amendments to the legal framework introduced in 2013, in particular the arrears regime, the extraordinary regime, the extension of the home loans regime to other credits secured by mortgage, the basic bank accounts regime and the arrears interest on banking transactions regime.

In 2013, within the scope of banking conduct supervision, Banco de Portugal initiated 56 administrative proceedings against 23 institutions, 11 of which related to the general regime of arrears. Banco de Portugal concluded 33 administrative proceedings, 19 regarding proceedings carried forward from previous years and 14 initiated in 2013.

### **Financial information and education**

The importance Banco de Portugal attaches to financial information and education continued to be reflected in its banking conduct supervision activities.

In 2013 Banco de Portugal disseminated the amendments to the legal framework applicable to the retail banking markets, with a special focus on the arrears and the basic bank accounts regimes, by creating specific

contents in the Bank Customer Website and publishing brochures and leaflets. In 2013 daily average visits to the Bank Customer Website increased by 32 per cent from 2012, mostly due to demand for these new contents.

Banco de Portugal also participated in information sessions held in various parts of the country to disseminate information on the rights and duties of bank customers established in the new regimes and to carry out the training of trainers on these issues. A number of training sessions were aimed at the staff belonging to the ANIC (Assistance Network for Indebted Consumers), in liaison with the Directorate-General for Consumers.

Banco de Portugal continued to play an active role in the National Plan for Financial Education, which has been focusing in particular on financial education initiatives in schools. In 2013 the Plan reached an important milestone with the adoption of the Core Competencies for Financial Education by the Ministry of Education and Science. These provide a financial education approach for each level of education and may be used by teachers in any discipline or non-disciplinary area. The Plan's first international conference, the new edition of the Todos Contam (Everybody counts) competition and the celebration of Financial Literacy Day in cooperation with the Todos Contam network of schools proved how the Plan prioritises youth financial education and the role of schools in promoting financial education.



## **International agenda on banking conduct supervision**

In 2013 the regulation and supervision of retail banking markets were once again at the forefront of the agenda of several international bodies and fora in which Banco de Portugal participates.

In the European Union, the work of the European Commission, the European Council and the European Parliament was particularly relevant in preparing new directives and regulations on retail banking markets, as was the work of the European Banking Authority by stepping up its activities to protect bank customers and focusing in particular on financial innovation. The activities of the OECD/G20 were also particularly significant in establishing principles and publishing recommendations on consumer rights.

In 2013 an international organisation was created to protect consumers of financial products and services, bringing together banking conduct supervisory authorities from around the world and focusing on credit and payment services: FinCoNet (International Financial Consumer Protection Organisation).

## Banking conduct supervision – Main indicators

### Arrears regime oversight:

- Information analysed on 839,603 procedures under the OASP on mortgage credit and consumer credit agreements
- Information analysed on 1,830 requests for access to the extraordinary regime
- 1,336 complaints received on issues pertaining to the arrears regimes, 48 of which on the extraordinary regime
- 141 information requests on arrears received from bank customers, 9 of which on the extraordinary regime
- 297 inspections conducted on the implementation of the arrears regimes, 36 of which on the extraordinary regime
- 284 inspections on home loans offered by 45 credit institutions, of which:
  - 101 on the implementation of the general regime
  - 36 on the implementation of the extraordinary regime
  - 40 on the implementation of the arrears interest on banking transactions regime
  - 60 on the implementation of the extension of the home loans regime to other credits secured by mortgage
- 400 inspections on consumer credit offered by 88 credit institutions, of which:
  - 160 on the implementation of the general regime
  - 111 on the implementation of amendments to the consumer credit regime
  - 75 on the implementation of the arrears interest on banking transactions regime

### Systematic monitoring:

- Analysed 6,900 advertising campaigns, 70 per cent of which on consumer credit products covering 55 credit institutions
- Conducted prior inspections on 159 information leaflets on indexed and dual deposits offered by 11 credit institutions
- Assessed compliance with maximum rates, based on information reported by 53 credit institutions on 1,253,672 new consumer credit agreements
- Examined 1,533 price lists (986 fees and expenses leaflets and 547 interest rate leaflets) of 95 credit institutions
- 197 inspections on payment services offered by 113 credit institutions
- 365 assessed draft credit agreements on personal and car credit from 136 credit institutions

### Inspections:

- 357 inspections on the price lists of 94 credit institutions
- 123 inspections on bank deposits offered by 54 credit institutions, of which:
  - 37 inspections on 6 credit institutions on the legal framework of basic bank accounts

### Management of complaints:

- 17,911 complaints received, a monthly average of 1,493
- 1,288 complaints received on the general regime and 48 on the extraordinary regime

### Information requests:

- 2,864 information requests received from bank customers, a monthly average of 239

**Correction of irregularities and sanctions:**

- 1,030 recommendations and specific orders issued to correct irregularities, of which:
  - 296 on the implementation of the arrears regimes
  - 20 on the implementation of the arrears interest on banking transactions regime
  - 103 on the implementation of the extension of the home loans regime to other credits secured by mortgage
  - 25 on the implementation of amendments to the consumer credit regime
  - 44 on the implementation of the legal framework of basic bank accounts
- Initiation of 56 administrative proceedings for breach of rules.

