

# Banking conduct supervision: oversight in a digital context

Maria Lúcia Leitão

25 September 2018

Banking Conduct Supervision:  
new challenges ten years after the financial crisis



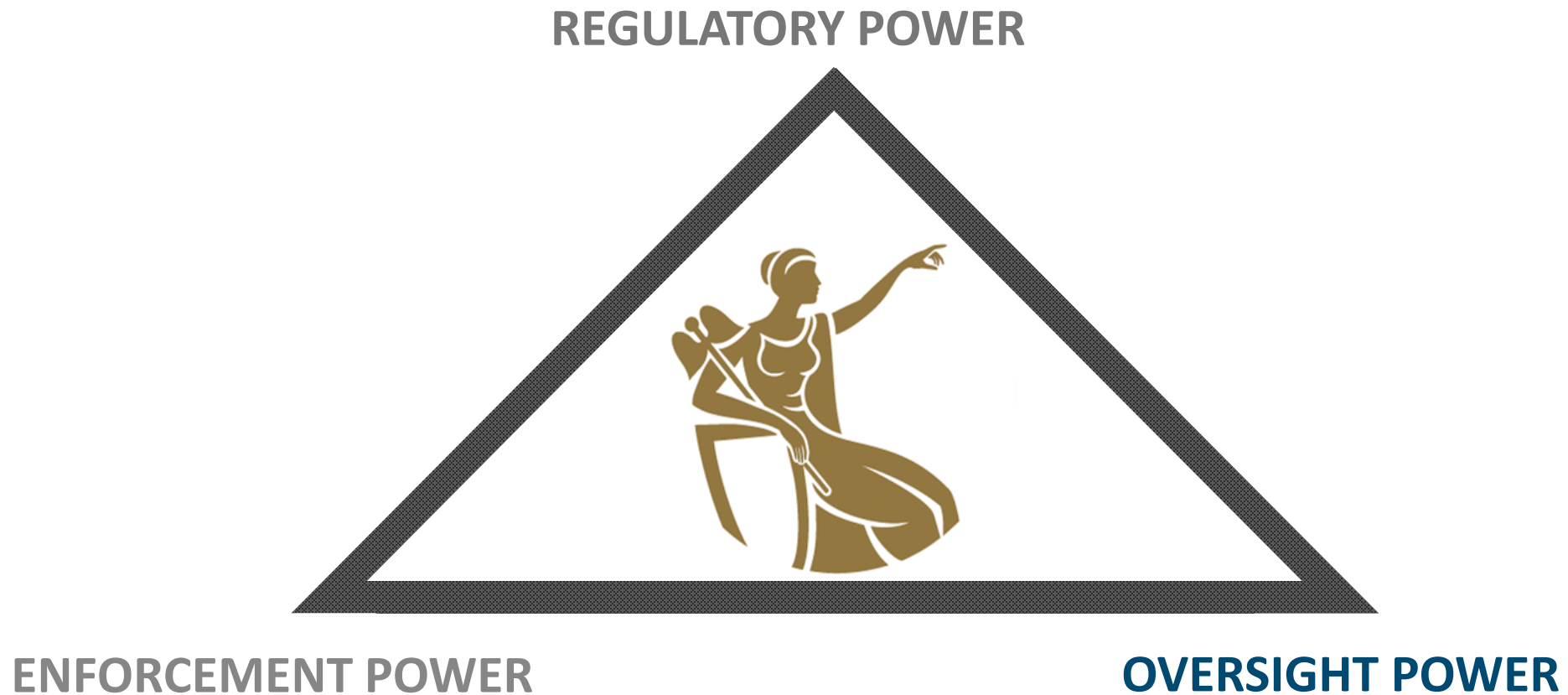
BANCO DE  
PORTUGAL  
EUROSISTEMA

# BANKING CONDUCT SUPERVISION: A CHALLENGE UNDER CONSTRUCTION



## Banco de Portugal was given a broad banking supervision mandate

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## Oversight power aims to ensure compliance with the regulatory framework...

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### Exercised by the Banking Conduct Supervision Department

- Covers retail banking products and services
- Involves the department's various teams
- Uses several oversight tools



## ... accompanying the progressive increase of rights awarded to bank customers ...

- Transparency of information and duties of conduct
- Standardisation of commercial practices
- More intrusive supervision
- Widening the supervision perimeter





## ... accompanying the progressive increase of rights awarded to bank customers ...

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- Transparency of information and duties of conduct
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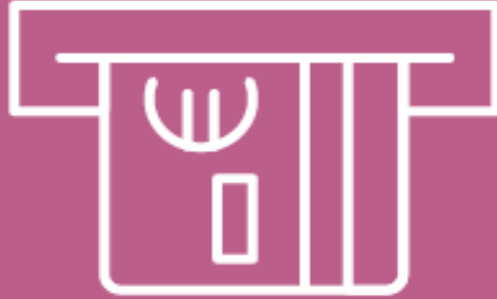


... in the various banking markets subject to Banco de Portugal's banking conduct supervision

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**Mortgage  
credit**



**Payment services**



**Consumer credit**



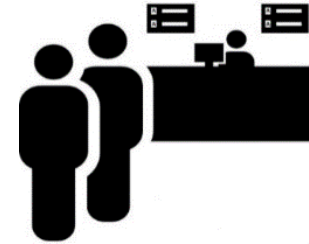
**Deposits and  
accounts**



# The increase of the rights of bank customers requires the use of various supervisory tools:

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Systematic  
oversight



Inspections

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Pre-  
contractual

When signing  
the contract

During the  
contractual  
relationship

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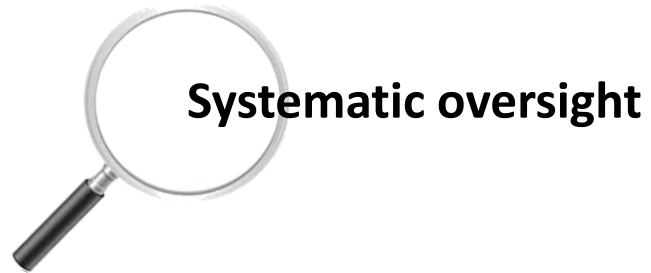
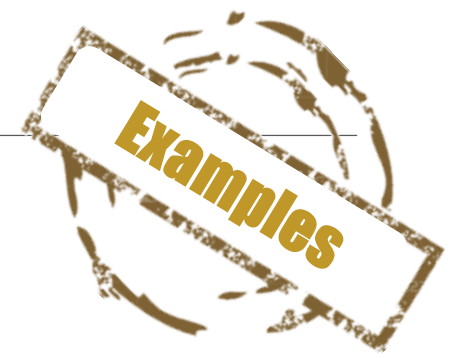
Complaints'  
management



Thematic  
reviews







Advertising



FID



Price lists



Information sheets



Assistance





Advertising



FID



Price lists



Information sheets



Assistance



# Pre-contractual oversight



**Mystery shopping  
inspections**



**Advertising**



**FID**



**Price lists**



**Information sheets**



**Assistance**

...





# Pre-contractual oversight



Advertising



FID



Price lists



Information sheets



Assistance

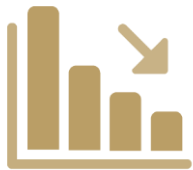
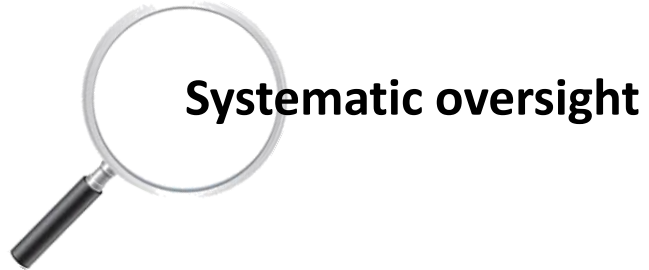
...



**Complaints analysis**



# Oversight when signing the contract...



Maximum rates for  
consumer credit



Contractual  
information



Cross-selling

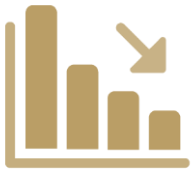
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## Oversight when signing the contract...



**On-site inspections**



**Maximum rates for  
consumer credit**



**Contractual  
information**



**Cross-selling**

...

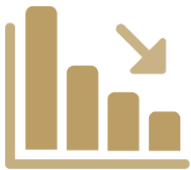




## Oversight when signing the contract...



**Inspections over the  
counter**



**Maximum rates for  
consumer credit**



**Contractual  
information**

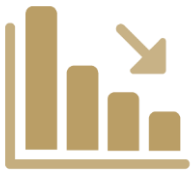


**Cross-selling**

...



## Oversight when signing the contract...



Maximum rates for  
consumer credit



Contractual  
information



Cross-selling

...

 **Complaints analysis**



## And oversight during the contract lifetime...



Statements



Invoice/receipt



Early repayment



Right of  
withdrawal



Arrears





## And oversight during the contract lifetime...



**On-site inspections**



**Statements**



**Invoice/receipt**



**Early repayment**



**Right of  
withdrawal**



**Arrears**

...



## And oversight during the contract lifetime...



**Inspections over the counter**



**Statements**



**Invoice/receipt**



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**Right of  
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**Arrears**

...



## And oversight during the contract lifetime...



Statements



Invoice/receipt



Early repayment



Right of  
withdrawal



Arrears

...

**Complaints analysis**





# Thematic reviews guide the oversight work

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- Assessing the implementation of the new regulations
- Monitoring the markets' developments
- Informing the market about best practice



# Banco de Portugal publicises its oversight activities



*At an early stage, banking conduct supervision focused on information transparency.*

*Over the past few years, the work has included monitoring the assessment and compensation policies of staff working in institutions and the procedures adopted when creating and offering such products and services. In turn, **supervisory authorities work in an environment characterised by a new wave of technological innovation.***

***The provision of innovative banking products and services must not jeopardise compliance with the regulatory framework and leave bank customers unprotected.***

*For these reasons, **conduct of business supervisors must closely monitor developments in these markets, in a timely fashion, using new supervisory tools where necessary.***

Excerpt from the Introductory Note of the Banking Conduct Supervision Report 2017

Luís Máximo dos Santos,

Vice-Governor





*Digitalisation of the retail banking markets brings new challenges and new opportunities to oversight work*







To continue to ensure compliance with the regulatory framework and to promote bank customers' rights, the conduct supervisor has to use new methods and tools...





# Banking conduct supervision's strategic approach faced with challenges posed by technological developments

1. Tracking technological developments
2. Monitoring products and services provision
3. Removing barriers
4. Ensuring technological neutrality
5. Promoting digital financial training and information







# Challenge 1

## Tracking technological developments

Stimulating dialogue with the industry to understand the technological options and choices impacting the provision of banking products and services

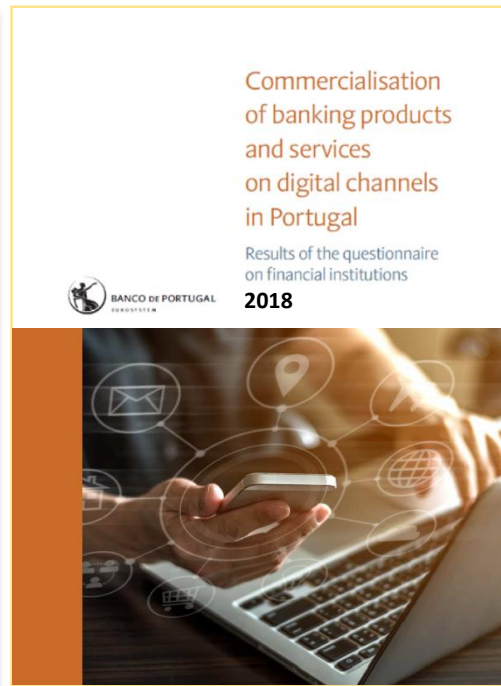
Taking an active role in international working groups. Digital's blurring of borders requires a transnational approach

Increasing training and knowledge-sharing (multidisciplinary, agile teams)



## Challenge 2

# Monitoring products and services provision



- Provision of digital channels by financial institutions
- Levels of adoption and use of digital channels
- Growth prospects
- Limitations and obstacles for supply/demand
- Banking products and services provided
- Security risks and risk mitigation mechanisms

## Challenge 3

### Removing barriers



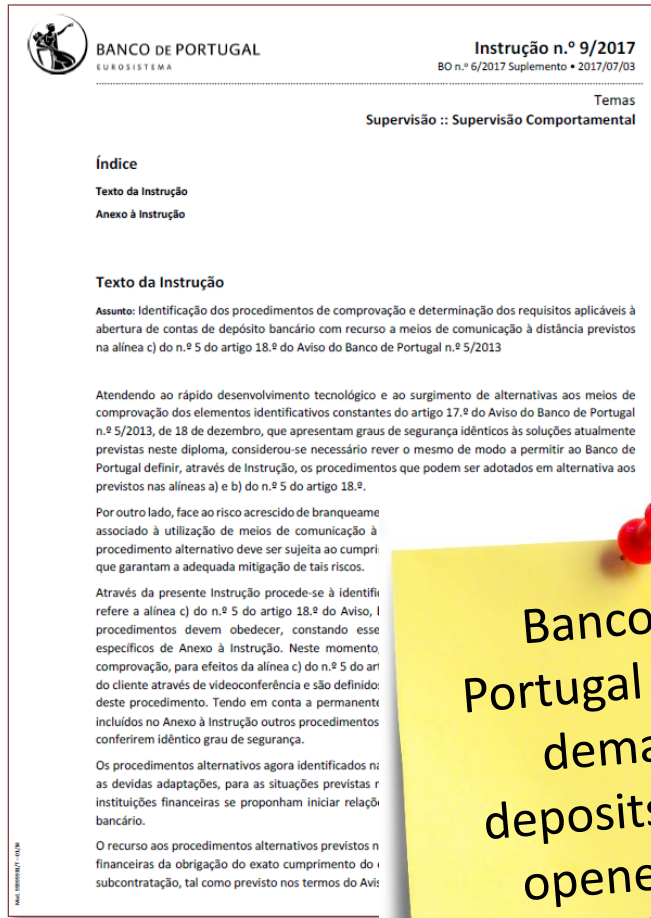
- Aligning the regulatory framework with technological innovation
- Removing barriers without compromising security, information transparency and the rights of bank customers



## Challenge 3

### Removing barriers

- Technical Know Your Customer requirements established in Instruction No. 9/2017
- The supervised institutions must use assisted videoconference
- Banco de Portugal assesses technologically innovative solutions, and may in the future regulate other procedures for verifying the customers' identification data with an identical security level





## Challenge 4

### Ensuring technological neutrality


***“Same business, same risks,  
same rules, same supervision”***

- “Mystery shopping inspections” oversight loses relevance in digital channels
- New supervisory tools are necessary to continue to protect bank customers



# Challenge 4

## Ensuring technological neutrality



**BANCO DE PORTUGAL**  
EURO SISTEMA

### Circular-Letter No 4/2018

Emite: DSC

Nº/Referência: CC/2018/00000004

Data: 2018/01/17

**Assunto:** Prestação de informação ao Banco de Portugal no âmbito da comercialização de produtos de crédito aos consumidores através de canais digitais

A crescente comercialização de produtos e serviços bancários de retalho através de canais digitais, nomeadamente por via de aplicações para dispositivos móveis (APP) e de plataformas online, coloca novos desafios ao supervisor, em particular no que toca ao acesso à informação necessária à fiscalização do cumprimento dos requisitos legais e regulamentares aplicáveis à comercialização desses produtos e serviços e, bem assim, ao acompanhamento do funcionamento dos mercados bancários de retalho nos canais digitais.

Conquanto a inovação tecnológica abranja diferentes produtos e serviços bancários de retalho, considera-se ser prioritária a obtenção de informação que permita a fiscalização e o acompanhamento das práticas das instituições de crédito e sociedades financeiras, no âmbito da comercialização de contratos de crédito abrangidos pelo disposto no Decreto-Lei n.º 133/2009, de 2 de junho (doravante, "contratos de crédito aos consumidores"), quando o referido processo de contratação seja iniciado e concluído através de canais digitais.

Assim, no uso da competência que lhe é atribuída pelo disposto no artigo 17.º da sua Lei Orgânica, aprovada pela Lei n.º 5/98, de 31 de janeiro, e na alínea e) do n.º 1 do artigo 120.º do Regime Geral das Instituições de Crédito e Sociedades Financeiras, aprovado pelo Decreto-Lei n.º 298/92, de 31 de dezembro, o Banco de Portugal transmite o seguinte:

- As instituições de crédito e as sociedades financeiras (doravante, "instituições") que disponibilizem aos seus clientes o acesso a canais digitais para iniciarem e concluírem o processo de contratação de produtos de crédito

Sede: Rua do Comércio, 340 • 1300-0  
T: +351 213 230 200 • www.bportugal.pt  
Contribuinte n.º 506 792 771 • Capital Social: 1

Anexo à Carta Circular n.º CC/2018/00000004

Questionário sobre produtos de crédito aos consumidores comercializados através de canais digitais

| 1. Identificação da instituição  |  |
|--|--|
| 1.1 Denominação  |  |
| 1.2 Código   |  |
| 2. Informação geral do produto de crédito  |  |
| 2.1 Designação do produto  | [Identificação comercial do produto]   |
| 2.2 Categoria de crédito (Instrução do Banco de Portugal n.º 14/2019)                                      | [AA01; AA02; AA03; AA04; AA05; AA06; AA07; AA08; AA09; AA10; AA11; AA12; AA13; AA14; AA15; AA16; AA17; AA18; AA19; AA20; AA21]   |
| 2.3 Destinatário do produto  | [Caraterização do cliente destinatário (grupo etário, ...)]  |
| 2.4 Canais disponibilizados para a comercialização do produto  | <input type="checkbox"/> Online<br><input type="checkbox"/> Móvel<br><input type="checkbox"/> Outros canais (balcão, telefone, ...)  |
| 2.5 Data de início da comercialização do produto através de canais digitais                                | <div> <div>Móvel</div> <div>Online</div> </div>  |
| 2.6 Classificação de canal digital (se aplicável)  | <div> <div> <input type="checkbox"/> Genérico (apenas para clientes)<br/> <input type="checkbox"/> Genérico (para clientes e não clientes)<br/> <input type="checkbox"/> Específico (apenas para clientes)<br/> <input type="checkbox"/> Específico (para clientes e não clientes)           </div> <div> <input type="checkbox"/> Genérico (apenas para clientes)<br/> <input type="checkbox"/> Genérico (para clientes e não clientes)<br/> <input type="checkbox"/> Específico (apenas para clientes)<br/> <input type="checkbox"/> Específico (para clientes e não clientes)           </div> </div> |
| 2.7 Identificação da empresa externa que desenvolveu a solução tecnológica, se aplicável                   |  |
| 3. Processo de contratação e prestação de informação ao cliente  |  |
|  | <div> <div>Móvel</div> <div>Online</div> </div>  |
| 3.1 Fundamentos disponíveis no processo de contratação   | <div> <div> <input type="checkbox"/> Pedido de crédito do consumidor<br/> <input type="checkbox"/> Simulação<br/> <input type="checkbox"/> Proposta<br/> <input type="checkbox"/> Celebração           </div> <div> <input type="checkbox"/> Pedido de crédito do consumidor<br/> <input type="checkbox"/> Simulação<br/> <input type="checkbox"/> Proposta<br/> <input type="checkbox"/> Celebração           </div> </div>   |
| Indique outras que eventualmente existam   |  |
| 3.2 Tempo (mínimo) previsto para a duração do processo de contratação                                      | <div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> </div>   |
| 3.3 Etapas descritas ao cliente antes de este iniciar o processo de contratação                            | <div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> </div>   |
| 3.4 Mecanismo disponível para o cliente, em sede pré-contratual, solicitar a minuta do contrato de crédito | <div> <div> <input type="checkbox"/> Apenas visualização<br/> <input type="checkbox"/> Na "área de cliente"<br/> <input type="checkbox"/> Por email<br/> <input type="checkbox"/> Download           </div> <div> <input type="checkbox"/> Apenas visualização<br/> <input type="checkbox"/> Na "área de cliente"<br/> <input type="checkbox"/> Por email<br/> <input type="checkbox"/> Download           </div> </div>   |
| 3.5 Forma de disponibilização dos documentos de informação pré-contratual (FIN e minuta do contrato)       | <div> <div> <input type="checkbox"/> Apenas visualização<br/> <input type="checkbox"/> Na "área de cliente"<br/> <input type="checkbox"/> Por email<br/> <input type="checkbox"/> Download           </div> <div> <input type="checkbox"/> Apenas visualização<br/> <input type="checkbox"/> Na "área de cliente"<br/> <input type="checkbox"/> Por email<br/> <input type="checkbox"/> Download           </div> </div>   |
| Indique outras que eventualmente se apliquem   |  |
| 3.6 Forma de a instituição obter a confirmação de que o cliente recebeu a informação pré-contratual        | <div> <div> <input type="checkbox"/> Scroll down obrigatório<br/> <input type="checkbox"/> Abertura de documento obrigatória<br/> <input type="checkbox"/> Tick-box "Li e aceito"           </div> <div> <input type="checkbox"/> Scroll down obrigatório<br/> <input type="checkbox"/> Abertura de documento obrigatória<br/> <input type="checkbox"/> Tick-box "Li e aceito"           </div> </div>   |
| Indique outras que eventualmente se apliquem   |  |
| Prestação ao cliente de informação sobre o   | <div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> <div> <input type="checkbox"/> Sim<br/> <input type="checkbox"/> Não           </div> </div>   |

Banco de Portugal requires the institutions to provide information on the credit they are selling through homebanking and apps

- Consumer credit is also overseen in digital channels
- Reporting obligation on the contract process, the format for complying with information duties and the security mechanisms





## Challenge 4

### Ensuring technological neutrality



#### **Assistance obligation**

FAQ, chatbot and/or helpline on the credit product and borrowing process



#### **Pre-contractual and contractual information**

Compulsory scroll-down of the Standard European Consumer Credit Information Sheet, with 'I have read and understood' tick-box only available after scrolling down. Increased security over signing the contract



#### **Default options**

Default options are not allowed (e.g. for financing charges or purchasing insurance products)



#### **Right of withdrawal**

Withdrawal of the contract through the digital channel



#### **Right to early repayment**

Early repayment through the digital channel



## Challenge 4

### Ensuring technological neutrality

- Banco de Portugal adapts the regulations applying to the **creditworthiness assessment**

*The institution may estimate the consumer's regular income and expenditure, (...), in the case of a credit agreement to be concluded for an amount equal to or lower than the equivalent to tenfold the guaranteed monthly minimum wage.*

(Article 9(1) of Notice of Banco de Portugal No 4/2017)

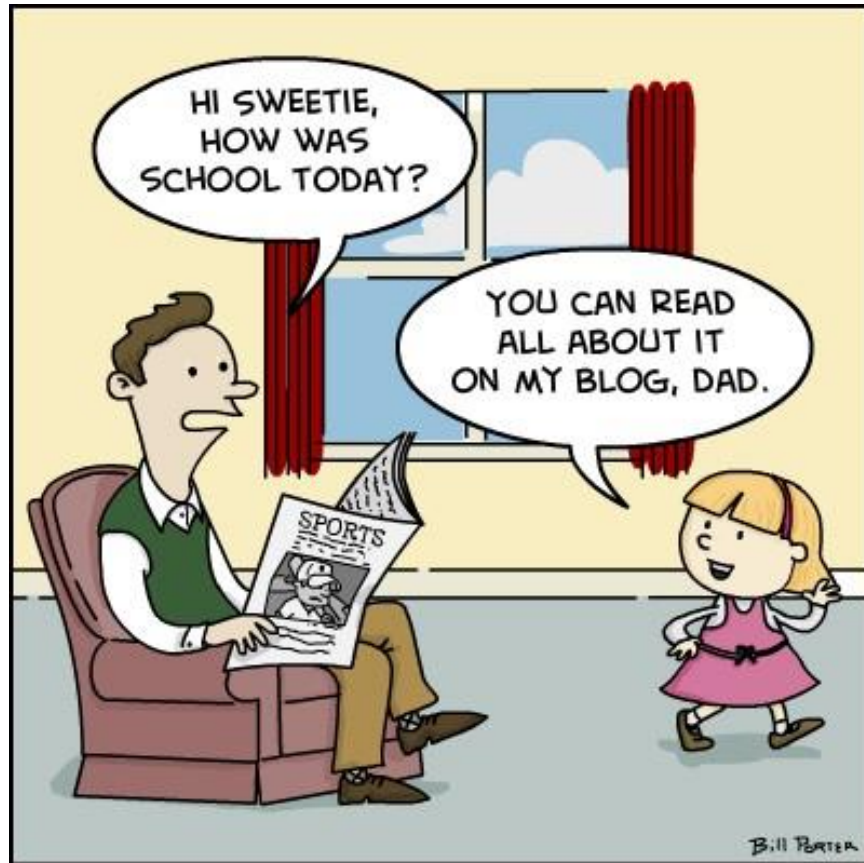


*“During 2019, the EBA will assess whether or not the potential risk of financial exclusion in the context of big data algorithms need any immediate action, as regards potential non-transparent credit scoring and decision-making and risks related to the ethics of algorithms”*



## Challenge 5

### Promoting digital financial training and information



The promotion of digital financial training and information of bank customers **is one of Banco de Portugal's strategic priorities**

DECODERS



Banking conduct  
supervision itself has  
to use technology for  
oversight

# SupTech





# THANK YOU!

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