

Extraordinary meeting of the Board of Directors of Banco de Portugal

14 August 2014

9.00 a.m.

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Present:

Vice-Governor Pedro Miguel de Seabra Duarte Neves

Vice-Governor José Joaquim Berberan e Santos Ramalho

Board Members José António Silveira Godinho and João José Amaral Tomaz

Agenda items:

1. Proposals by the Board of Directors of Novo Banco, S.A. regarding the commercial treatment of the retail customers of Banco Espírito Santo, S.A. who are holders of debt under the form of unsubordinated bonds previously issued by Banco Espírito Santo, S.A.
2. Proposals by the Board of Directors of Novo Banco, S.A. regarding the commercial treatment of the retail customers of Banco Espírito Santo, S.A. who have underwritten preferential shares or units in Special Purpose Entities (SPEs) whose assets are composed of unsubordinated bonds issued by Banco Espírito Santo, S.A.
3. Proposals by the Board of Directors of Novo Banco, S.A. regarding the commercial treatment of the retail customers who have underwritten debt securities issued by entities of Grupo Espírito Santo.
4. Repeal of Item 1 of the deliberation taken in the Extraordinary Meeting of the Board of Directors of Banco de Portugal of 30 July 2014 (7.00 p.m.) that determined the application of corrective measures to Banco Espírito Santo, S.A.

Under Article 146 (1) of the *Regime Geral das Instituições de Crédito e Sociedades Financeiras* – RGICSF (Legal Framework of Credit Institutions and Financial Companies), and in view of the

urgent need for replacing Item 1 of the deliberation taken by the Board of Directors of Banco de Portugal at its Extraordinary Meeting of 30 July (8.00 p.m.), as well as for Banco de Portugal to issue its opinion on the proposals submitted to it by the Board of Directors of Novo Banco, S.A. regarding the commercial treatment of retail customers of Banco Espírito Santo, S.A., as mentioned in Items 1, 2 and 3 above, these deliberations are considered to be urgent according to and for the purposes of Article 103 (1) (a) of the *Código de Procedimento Administrativo* (Administrative Procedures Code), without being subject to prior hearing of the interested parties.

The minutes of these deliberations are approved as a draft, with a view to their immediate implementation, under Article 27 (3) and for the purposes of Article 27 (4) of the Administrative Procedures Code.

DELIBERATIONS

Point One

With regard to the proposal of the Board of Directors of Novo Banco, S.A. for the commercial treatment of the retail customers who are holders of debt under the form of unsubordinated bonds previously issued by Banco Espírito Santo, S.A., the Board of Directors of Banco de Portugal decides, under Article 145.º-G (11) of RGICSF, and according to the provisions of Article 145.º-G (13) of RGICSF and Article 16 (c) of Notice of Banco de Portugal No 13/2012, to recommend to Novo Banco, S.A. the following:

- a) The unsubordinated bonds issued by Banco Espírito Santo, S.A. shall be repaid by Novo Banco, S.A. at their maturity date;
- b) It is incumbent on the Board of Directors of Novo Banco, S.A. to define and approve the conditions applicable to any repurchase operations of own bonds, provided that these conditions ensure a positive or at least neutral impact as regards its results, solvency ratios and medium-term liquidity position. In particular, such operations shall not undermine compliance with the minimum solvency ratios in force;
- c) No repurchase operation of own bonds shall be made before Banco de Portugal assesses the content of an exhaustive inventory, duly updated, received from Novo Banco, S.A., together with a summary describing in detail the repurchase operations to be carried out and their impact;
- d) The inventory referred to in the foregoing subparagraph shall identify: the bond issuer, the bond holder (name and tax identification number), the date of acquisition, the entity that has sold the bond to the customer, the repurchase value, the value at which the bond is entered in the balance sheet of Novo Banco, S.A., whether the holder is eligible for the repurchase

operation, as well as the impact of the repurchase operation on results (considering in particular the value of the existing provision) and on the liquidity position;

- e) Repurchase operations cannot be carried out with the persons and entities mentioned in (b) (i) to (iii) of Annex 2 to the deliberation of 3 August 2014 (8.00 p.m.), with the clarifications and adjustments introduced by the deliberation of 11 August 2014 (5.00 p.m.), as these bonds have not been transferred to Novo Banco, S.A.;
- f) Novo Banco, S.A. shall develop and implement control procedures ensuring compliance with the conditions and terms defined for the repurchase operations, as well as its immediate demonstration in order to be verified by the external auditor, the Board of Auditors of Novo Banco, S.A. and the competent authorities.

Point two

With regard to the proposal of the Board of Directors of Novo Banco, S.A. for the commercial treatment of the retail customers who have underwritten preferential shares or units in SPEs whose assets are composed of unsubordinated bonds previously issued by Banco Espírito Santo, S.A., the Board of Directors of Banco de Portugal decides, under Article 145.º-G (11) of RGICSF, and according to the provisions of Article 145.º-G (13) of RGICSF and Article 16 (c) of Notice of Banco de Portugal No 13/2012, to recommend to Novo Banco, S.A. the following:

- a) No purchase operation can be carried out regarding preferential shares or units in SPEs whose assets are composed of bonds issued by Banco Espírito Santo, S.A.;
- b) Novo Banco, S.A. shall submit to Banco de Portugal an exhaustive description and characterisation of these structures, including the details of the assets of the SPEs and the legal nature of the preferential shares and the consequences of their possible repurchase, as well as accurate, detailed and duly founded information on the losses entered in the books as at 30 June 2014, as a result of the consolidation of the SPEs.
- c) A duly updated and exhaustive inventory shall be submitted, identifying: the holder of preferential shares or units (name and tax identification number), the date of acquisition, the entity that sold the instruments to the customer, the repurchase value, whether the holder is eligible for the purchase operation, as well as the impact of the possible purchase operation on results (considering in particular the value of the existing provision) and on the liquidity position;

Point 3

With regard to the proposal of the Board of Directors of Novo Banco, S.A. for the commercial treatment of the retail customers who have underwritten debt securities issued by entities of Grupo

Espírito Santo, the Board of Directors of Banco de Portugal decides, under Article 145-G (11) of RGICSF and according to the provisions of Article 145-G (13) of RGICSF and Article 16 (c) of Notice of Banco de Portugal No 13/2012, to recommend to Novo Banco, S.A. the following:

- a) It is incumbent on the Board of Directors of Novo Banco, S.A. to define and approve the conditions applicable to any payment of compensation, strictly based on commercial grounds, to retail customers who hold debt securities issued by entities of Grupo Espírito Santo, provided that such conditions ensure a positive or at least neutral impact as regards its results, solvency ratios and liquidity position. In particular, these operations shall not undermine compliance with the minimum solvency ratios in force;
- b) No payment can be made before Banco de Portugal assesses the content of an exhaustive inventory of debt securities issued by entities of Grupo Espírito Santo (broken down by type of instrument, specifying the commercial paper, and issuer, separating ESI and Rioforte) held by retail customers of entities that are part of the Novo Banco group, as at 14 February 2014, and still outstanding. This inventory shall be accompanied by a summary describing accurately the compensation operation and its impacts;
- c) The inventory referred to in the foregoing subparagraph shall identify: the debt security issuer, the debt security holder, the date of acquisition, the entity that has traded the debt security, the investment amount, whether the holder considers there is any reason for the payment to be excluded, pursuant to subparagraphs (e) and (f) of this Deliberation, as well as the impact of the operation on results (considering in particular the value of the existing provision) and on the liquidity position;
- d) Prior to any payment to a given retail customer an assessment shall be made of the financial cost-benefit for Novo Banco, S.A. of the commercial proposal;
- e) Payments can only be made to retail customers that are non-qualified investors, in accordance with the rules established in *Código dos Valores Mobiliários* (Portuguese Securities Code), who have originally purchased the debt securities through an entity that is currently part of the Novo Banco group, prior to 14 February 2014 (when a ban was imposed on trading debt from entities of the non-financial arm of Grupo Espírito Santo to retail customers classified as non-qualified investors, as established by Banco de Portugal);
- f) No payments can be made to the persons or entities referred to in (b) (i) to (iii) of Annex 2 to the deliberation of 3 August 2014 (8 p.m.) with the clarifications and adjustments introduced by the deliberation of 11 August 2014 (5 p.m.);
- g) Any agreement to be entered into with customers on the above-mentioned payment operations shall be drawn up in writing and contain, at least, the following clauses:
 - i) A statement by Novo Banco, S.A. that the agreement is concluded for purely commercial purposes and does not involve the assumption by Novo Banco, S.A.

of any responsibility for trading such securities, nor the admission of any acts prejudicial to the customers;

- ii) A statement by Novo Banco, S.A. that no responsibility arising from trading the securities in question has been transferred to Novo Banco, S.A., in accordance with subparagraph (b) (vii) of Annex 2 to the deliberation of 3 August 2014 (8 p.m.) with the clarifications and adjustments introduced by the deliberation of 11 August 2014 (5 p.m.);
- iii) A statement by the customers whereby they renounce to any claim to compensation related to trading the securities in question;
- h) Novo Banco, S.A. shall develop and implement control procedures that ensure compliance with the approved terms and conditions, as well as its immediate demonstration in order to be verified by the external auditor, the Board of Auditors of Novo Banco, S.A. and the competent authorities;

Point 4

Taking into account the content and effect of the deliberation of 3 August of the Board of Directors of Banco de Portugal (8.00 p.m.) that determined the application of a resolution measure to Banco Espírito Santo, S.A., and with a view to clarifying the effects of the deliberation taken in the Extraordinary Meeting of the Board of Directors of Banco de Portugal of 30 July 2014 (7.00 p.m.):

- a) The Board of Directors of Banco de Portugal decides to revoke the corrective measures applied to Banco Espírito Santo, S.A. in Point 1 of the deliberation taken in the Extraordinary Meeting of the Board of Directors of Banco de Portugal of 30 July 2014 (7.00 p.m.), pursuant to Article 139, Article 141 (1) (a) and (i), and Article 116-C (d) of RGICSF;
- b) As regards “repaying partially or in full or simply debiting deposit accounts or making any payments to meet credit claims whose holders, in either case, are persons having a direct relationship with BES or with ESFG, ESI, Rioforte or any other entities in a control or group relationship with BES, ESFG, ESI or Rioforte, as well as to meet credit claims whose holders are any entities or SPEs, irrespective of their institutional status or legal nature, whose beneficial owners are persons having a direct relationship with BES or with ESFG, ESI, Rioforte or any other entities in a control or group relationship with BES, ESFG, ESI or Rioforte”, that have been the object of one of the corrective measures, the Board of Directors of Banco de Portugal decides, under Article 145-G (11) of RGICSF and having regard to Article 145-G (13) and Article 16 (c) of Notice of Banco de Portugal No 13/2012, to communicate to Novo Banco, S.A., the following guidelines:

- (i) Irrespective of the non-transfer of the deposits of specific persons and entities to Novo Banco, S.A., the Board of Directors of Novo Banco, S.A. may decide to maintain active the accounts held by these persons and entities on the date of the resolution decision, provided that the balances existing on said date remain blocked, or alternatively to open new accounts, blocking the old debit and credit accounts of these persons and entities in order to process their financial movements and avoid the operational difficulties they currently face;
- (ii) The renewal of the commercial relationship with these persons and entities shall always be preceded by an analysis of the financial cost-benefit for Novo Banco, S.A., that takes into consideration the restrictions imposed by Banco de Portugal regarding credit exposure to Grupo Espírito Santo which are binding on Novo Banco, S.A. In any case, the credit exposure shall not exceed the ceilings currently used for each person and entity. Maintaining the commercial relationship shall depend on a prior binding opinion from the board of auditors and exclude any person or entity considered to be insolvent or not viable or that has joined any type of legal framework for creditor protection.

The Vice-Governor,

The Vice-Governor,

The Board Member,

The Board Member,

The Secretary to the Boards,