



BANCO DE PORTUGAL
EUROSYSTEM

UNOFFICIAL TRANSLATION

Notice 2/2020

Index

Notice Text

Notice Text

Within the scope of the COVID-19 pandemic, Decree-Law no. 10-J / 2020, of 26 March, was approved, establishing a moratorium, until 30 September 2020, applicable to some credit operations entered into with households and companies (public moratorium).

This Decree-Law, amended by Law no. 8/2020, of April 10, attributes to Banco de Portugal, under the terms of articles 6-A and 10 of Decree-Law no. 10-J / 2020, the duty to regulate the information duties to be observed by the institutions in the scope of the operations covered by the exceptional and temporary measures to respond to the COVID-19 pandemic provided for either both related to the respective clients, or in the scope of monitoring by the supervisor. Under the terms of paragraph 1 of article 8 of Decree-Law no. 10-J / 2020, of 26 March, Banco de Portugal is, in effect, the authority that is responsible for the supervision and inspection of the public moratorium regime, in the exercise of this mandate conferred by the legislator, to monitor the implementation, by the institutions, of the extraordinary support measures provided for in the aforementioned diploma.

At the same time, private initiative moratoria were applied by the institutions, applicable to situations excluded from the scope of Decree-Law no. 10-J/2020, of 26 March (private moratoria).

The European Banking Authority (EBA) issued, at the beginning of April, a set of guidelines regarding public and private moratoriums applicable to credit operations in the context of the current pandemic (Guidelines), establishing the terms and conditions that these moratoriums must comply with, so that its application, by itself, does not lead to the marking of credit operations as being in default or as restructured, under the terms and for the purposes of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 ("CRR") and the EBA Guidelines relating, in particular, to the application of the definition of non-compliance under article 178 of the CRR (EBA/GL/2020/02). Banco de Portugal, in its turn, issued

Circular No. CC / 2020/0000022, recommending institutions which are supervised (credit institutions and entities listed in article 1 of Banco de Portugal Notice No. 11/2014, December 22) that they have to comply with the EBA Guidelines. Thus, among other guidelines, institutions must collect and maintain a set of documentation on the public and private moratoria that they are applying, as well as notify Banco de Portugal about private moratorium that they apply to their clients.

The effective implementation of the public moratorium is dependent on its proper dissemination by the institutions to potential beneficiaries.

In addition, and meeting the private moratorium initiatives, it is important to ensure the correct identification, by clients, of the type of moratorium to which they adhere, public or private. Finally, given that both types of moratorium have the same purpose - to support households and companies due to the economic and financial impacts resulting from the COVID-19 pandemic - the principle of transparency of information is considered to have special relevance in both situations, so it is important that there are identical information duties to be provided to customers, regardless of the public or private nature of the moratorium.

This Notice does not modify the scope of matters that need to be regulated in order to fully comply with Decree-Law no. 10-J / 2020, showing that it is still necessary to regulate some reporting duties of institutions to Banco de Portugal in the context the term given by the legislator, namely to evaluate the implementation of the different moratorium regimes and to measure their impact on the institutions and their clients. These duties will be regulated by specific Instructions, as they are essentially concerned with matters related to the definition and the fulfillment of the information duties of the supervised entities before Banco de Portugal. The hearing of interested parties was suspended based on paragraph a) of paragraph 3 of article 100 of the Code of Administrative Procedure.

Thus, pursuant to paragraph 3 of article 6-A and paragraph 2 of article 10 of Decree-Law no. 10-J / 2020, of 26 March and no. 4 of article 77 of the Legal Framework of Credit Institutions and Financial Companies, approved by Decree-Law no. 298/92, of 31 December, Banco de Portugal determines the following:

Article 1

Object

1. This Notice regulates the information obligations to bank customers to be observed by institutions in the context of credit operations covered by the exceptional and temporary measures to respond to the COVID-19 pandemic provided for in Decree-Law no. 10-J / 2020, of March 26 (“public moratorium”), as well as within the scope of private initiative moratoria approved in accordance with the requirements contained in the guidelines issued by the European Banking Authority (EBA / GL / 2020/02) (“private moratorium”).

2. The reporting obligations to Banco de Portugal regarding the application by the institutions of public and private moratoria are regulated by specific instruction.
3. The exposures covered by the moratorium are communicated to the Central Credit Register (*Central de Responsabilidades de Crédito* - CRC) in accordance with the procedures set out by Banco de Portugal under Decree-Law no. 204/2008, of 14 October, and the Instruction of Banco de Portugal No. 17/2018, which approves the Regulation of the Central Credit Register.

Article 2

Scope

1. The information duties provided for in this Notice are observed by the institutions in relation to the following operations:
 - a) Credit operations covered by the public moratorium;
 - b) Other credit operations not covered by the public moratorium and which are the subject of a private moratorium.
2. For the purposes of this Notice, “institutions” are considered, in accordance with the provisions of article 3, paragraph 1, of Decree-Law no. 10-J / 2020, of 26 March, credit institutions, credit financial institutions, investment firms, financial leasing companies, factoring companies and mutual guarantee companies, as well as branches of credit institutions and financial institutions operating in Portugal, which contract credit operations covered by the public moratorium or a private moratorium.

Article 3

Disclosure of moratoria

1. Institutions that market credit operations covered by the public moratorium or by private moratoria provide information on those moratoria, in a prominent place, in the respective branches, and on the home page of their websites, as well as in the home banking and mobile applications, where available.
2. Institutions disclose information on the public moratorium and on private moratoria in order to clearly identify the nature of the moratorium to which this information refers.

3. The institutions also send to all customers, who have contracted credit operations covered by the public moratorium or by private moratoria to which they have subscribed, a communication, via email, short message service (SMS) or by any other means usually used in the communications established with each client, informing about the existence of said moratoria and the places where the client can obtain additional information.

Article 4

Information about moratoria

The information on the moratoria, public or private, to be disclosed under the terms of the previous article includes, at least, the following elements:

- a) Credit operations covered;
- b) Potential beneficiaries and their eligibility requirements;
- c) Process of access to the moratoria, containing, in particular, the following information:
 - i. Way of presentation of the access declaration;
 - ii. Documentation to be presented, if applicable;
 - iii. In the case of a private moratorium, who must submit a request for application in respect of credit operations with more than one borrower;
 - iv. Form in which the application, or non-application, of the moratorium will be communicated to the client;
 - v. Deadline for the communication referred to in the previous subparagraph.
- d) Types of moratoria and measures covered by the moratorium;
- e) Duration of each moratorium, with express reference to its beginning and end, as well as the possibility for the client to request the end of the moratorium before the end of the agreed period, if applicable;
- f) Impacts arising from the application of the moratorium on the value of the installments and on the repayment period of credit operations;
- g) In the case of a private moratorium, the impact of that moratorium on guarantees provided in the context of credit operations;
- h) Deadline for joining each moratorium.

2. Institutions that have joined private moratoria provide a form for the bank customers to apply, in which the measures covered by the moratoria and the respective impacts are explained and clients are allowed to indicate the desired options.

Article 5

Application and refusal to apply moratoria

1. Following the presentation of the declaration of access to the public moratorium or of the request for application to a private moratorium, the institutions inform the client about the application of the moratorium or, in

case the client does not fulfill the access conditions, about the non-application the moratorium and the respective grounds.

2. The communication referred to in the previous number must be done, on a durable medium, by the means usually used in the communications established with each customer in the credit operation in question.
3. The communication provided for in paragraph 1 contains information about the impact of the moratorium enforcement on the credit operation covered by the moratorium.
4. When there is a guarantee associated with the credit operation to which a public moratorium or a private moratorium has been applied, the institutions inform the guarantor about its application, through communication in a durable medium, explaining which impacts, under the legal and contractual terms, the application of the moratorium may lead to the guarantor.

Article 6

General duty of assistance

1. The institutions ensure the clarification of doubts posed by clients by making available, in an easy and permanently accessible place, namely on the respective website, a section of frequently asked questions on the application of the public moratorium and the private moratoria to which they have joined.
2. The clarification of doubts can also be guaranteed through a telephone hotline or a personalized chat.

Article 7

Implementation

This Notice enters into force on the date of its publication.