



CMVM

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## **Decree-Law No. 228/2000 of 23 September**

*(amended by Decree-Law No. 211-A/2008, of 3 November)*

The supervision of the national financial system is undertaken by three different authorities which are independent from one another, namely *Banco de Portugal* (the Portuguese Central Bank - BP), *Comissão do Mercado de Valores Mobiliários* (the Portuguese Securities Market Commission - CMVM) and *Instituto de Seguros de Portugal* (the Portuguese Institute of Insurance - ISP).

The elimination of borders between the various sectors of financial activity, pioneered by the financial conglomerates, has reinforced the need for the various supervisory authorities to strengthen cooperation with each other, creating efficient channels for communicating material information and coordinating their activities with a view to eliminating conflicts of power, regulatory hiatus and multiple use of own resources.

It is in this context and with those tasks in mind that the Government decided to create the National Council of Financial Supervisors (*Conselho Nacional de Supervisores Financeiros*).

It is reasonable that the Council be presided over by the Governor of the Portuguese Central Bank, in light of the fact that this entity is chiefly responsible for the stability of the financial system. Apart from its chairman, the Council shall have permanent representatives from the three supervisory authorities, and provision has been made for the possibility of other public or private entities being called to participate in their meetings, especially representatives from the Deposit Guarantee Fund (*Fundo de Garantia de Depósitos*), the Cooperative Agricultural Guarantee Fund (*Fundo de Garantia do Crédito Agrícola Mútuo*), the Investor Compensation Scheme (*Sistema de Indemnização aos Investidores*), and representatives from the entities operating the regulated markets.

The creation of the National Council of Financial Supervisors, without affecting the powers and independence of the different authorities, is aimed at institutionalising and organising cooperation between them, and creating a forum for joint action for the supervision of the financial system, so as to facilitate mutual exchange of information.

The members of the Council, as well as all other people collaborating with them, are bound by a duty of secrecy, and it is assumed that all information to which each authority has access through the Council shall be used in the interests of the public, which the Council was designed to protect.

The benefit of the opinions of *Banco de Portugal* (the Portuguese Central Bank) and *Comissão do Mercado de Valores Mobiliários* (the Securities Market Regulator/Commission) were sought.

Thus:

Pursuant to the terms of item a) of Article 198.1 of the Constitution, the Government hereby decrees the following:

### **Article 1 Creation**

The National Council of Financial Supervisors (CNSF), hereinafter referred to as the Council, is hereby created, for the purposes described herein, without prejudice to the powers and independence of the different authorities comprising it.

### **Article 2<sup>(1)</sup> Powers**

1 - The Council has the following powers:

- a) To coordinate the roles of the authorities supervising the financial system (Supervisory Authorities);
- b) To coordinate information sharing between supervisory authorities;
- c) To coordinate the joint action of 'on-site' supervision with the supervised entities;
- d) To draw up rules and mechanisms for the supervision of financial conglomerates;
- e) To formulate proposals for regulation of matters connected with more than one of the supervisory authorities' sphere of activity;
- f) To issue statements of opinion and formulate tangible recommendations within the respective powers' context pursuant to Article 7;
- g) To coordinate the supervisory authorities' joint action with national or foreign entities or international organisations;
- h) To monitor and assess developments in financial stability, ensure the exchange of information between the supervisory authorities pertaining to this area, establishing the appropriate mechanisms for said purpose and determine coordinated actions within the scope of the respective powers;

i) To carry out any action which is considered, on a consensual basis by the members, to be appropriate to the purposes indicated in the preceding sub-paragraphs and which fall within the scope of the powers of any of the supervisory entities;

j) To formulate strategic guidelines for the Council's activity.

2 – Within the context of powers as envisaged in the abovementioned sub-paragraph h), the CNSF should provide the Minister of Finance with the information pertaining to financial stability, even if it falls under the legal duty of secrecy.

3 – The exchange of information pursuant to the preceding paragraphs is covered by the duty of secrecy that legally binds the persons and entities identified therein.

4 – The CNSF should also draw up an Annual Activity Report that should be submitted to the Minister of Finance and published by 31<sup>st</sup> March of each year.

(1) Amended by Article 10 Decree-Law No. 211-A/2008, of 3 November

### **Article 3 Definitions**

For the effects of this document:

a) Supervisory authorities of the financial system are considered to mean authorities responsible for the prudential supervision, in Portugal, of the following:

i) Credit institutions and financial companies, including investment firms, as defined in the Legal Framework for Credit Institutions and Financial Companies;

ii) The activities of insurance, reinsurance and insurance intermediation, of companies connected or complementary to those and the activities of pension funds;

iii) The securities market;

b) Financial conglomerates: Groups of companies simultaneously including companies subject to prudential supervision by Banco de Portugal and the Portuguese Institute of Insurance.

### **Article 4 Composition**

1. The following are permanent members of the Council:

a) The governor of Banco de Portugal, who presides over it;

b) The member of the board of governors of Banco de Portugal with responsibility for supervision of credit institutions and financial companies;

c) The chairman of the Portuguese Institute of Insurance;

d) The chairman of the Portuguese Securities Market Commission (CMVM).

2. In case of absence, for reasons which are duly justified, of the permanent members referred to in sub-paragraphs b), c) and d) of the previous paragraph, they may be represented by legal or statutory substitutes, which shall enjoy all the rights and duties of those whom they represent.

3. Other private or public entities may be invited to participate in the work of the Council, in particular representatives from the Deposit Guarantee Fund, the Cooperative Agricultural Guarantee Fund, the Investor Compensation Scheme, the companies operating the regulated markets and associations representing any type of institution subject to prudential supervision.

#### **Article 5 Coordination**

1. If the chairman is absent or unable to perform his functions, work shall be coordinated by one of the other members of the Board, serving as a substitute.

2. The functions of the substitute referred to in the previous paragraph shall be performed on a rotational basis, for periods of one year, coinciding with the calendar year.

#### **Article 6 Resolutions**

1. The conclusions reached at meetings of the Council shall be recorded in a summary to be presented at meetings of the boards of directors of each of the authorities represented.

2. Consensual conclusions not containing elements legally subject to secrecy can be brought to the attention of the Minister of Finance, any companies in the public and private sector and the general public, if this is consensually agreed to be convenient.

#### **Article 7 <sup>(1)</sup> Opinions and Recommendations**

1. The Minister of Finance and the Governor of the Portuguese Central Bank (*Banco de Portugal* - BdP), with the latter representing the Bank as the entity responsible for stability of the national financial system, may request a statement of opinion from the Council or submit reports on any matter within the scope of its powers.

2. The Council may take the initiative in issuing statements of opinion or formulating tangible recommendations on any matter within its powers.

(1) Amended by Article 10 Decree-Law No. 211-A/2008, of 3 November

#### **Article 8 <sup>(1)</sup> Meetings**

1. The meetings shall take place at least once every two months and the respective date is convened at least 15 days in advance by the Council's Chairman.

2. Extraordinary meetings may be held at any time on the Chairman's initiative or on request by any of the other permanent Council members without the prior notice referred to in the preceding paragraph.

(1) Amended by Article 10 Decree-Law No. 211-A/2008, of 3 November

**Article 9**  
**Technical support**

On prior agreement between the members of the Board, they may be accompanied by colleagues, which shall have the status of observers, or may determine the creation of working groups to study matters of common interest to the authorities sitting on the council.

**Article 10**  
**Duty of secrecy**

The members of the Council, as well as any other persons collaborating with it, shall be bound to the duty of secrecy with regard to the facts and elements covered by that duty, under the terms set down by law and applicable to each case.

**Article 11**  
**Entry into force**

This document shall come into force on the day immediately following that of its publication.

Read and approved by the Council of Ministers on 10 August 2000 - Jaime José Matos da Gama - Fernando Manuel dos Santos Vigário Pacheco.

Promulgated on 31 August 2000.

For publication.

President of the Republic, JORGE SAMPAIO

Countersigned on 14 September 2000.

The Prime Minister, António Manuel de Oliveira Guterres.