



BANKING & FINANCE | CMVM REGULATION no. 4/2008 DUTY TO DISCLOSE INFORMATION ON RELEVANT UNCOVERED SHORT POSITIONS

The current market context has been triggering the adoption of distinctive supervisory procedures and the establishment of rules imposing the reporting of information to the Portuguese Securities Market Commission (CMVM) on relevant uncovered short positions. The present Regulation aims at strengthening such procedures and rules.

Relevant Undercovered Short Positions

For the purposes of the Regulation “*relevant uncovered short positions*” are deemed to be any uncovered economic position held by the investor or financial intermediary deriving from the obligation for future delivery or similar financial result which is equal to or greater than 0.25% of the capital of the issuing company, independent of the nature of said interests.

The following constitute transactions or instruments from which there arise an uncovered economic position:

- (a) Loans relating to shares and securities that give the right to its subscription, acquisition or conversion, provided it's on the utilized part;
- (b) Derivatives negotiated in regulated markets; and
- (c) OTC derivatives, particularly, swaps.

Pursuant to the Regulation, the uncovered economic position is deemed to be relevant when from an array of contracts and transactions carried out by the respective holder (or by any entity related therewith which holds votes attributed to the holder, pursuant to Article 20 Securities Code) there results a net short position that is greater than 0.25 of the capital of the issuing entity for each and every future date.

Duties of Disclosure and Communication of Relevant Undercovered Short Positions

Investors and financial intermediaries that acquire relevant uncovered short positions in shares of any of the listed financial institutions referred to below shall report to the issuing entity the said positions by the close of the day after said acquisition. The issuing entity shall disclose the notification on the Information Disclosure System of the CMVM immediately thereafter.



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Additionally, the investors and financial intermediaries that acquire relevant uncovered short positions in the shares referred to above or in shares that comprise the PSI 20 at any time shall disclose said positions to the CMVM by the close of the day following said acquisition.

Furthermore, and as far as close of positions are concerned, the investor or financial intermediary who is a holder of relevant uncovered short positions that were reported pursuant to the precedent paragraph shall report to the CMVM the close of said position if it falls below the 0.25% threshold on the following day after said close. If the relevant uncovered short position was held in the shares of any of the referred financial institutions the investor or financial intermediary shall also report the close, within the same time period, to the issuing entity that shall immediately disclose said closing on the Information disclosure System of the CMVM.

The notifications mentioned above should include comprehensive and detailed information on the type of transactions or instruments from which resulted the net economic short position, as well as on the entities related to the investor or financial intermediary that directly holds a financial interest.

Furthermore, the notifications to the CMVM should include information on the stakeholder and on the entity with which the exposure is held, if applicable.

The listed financial institutions to be considered for the above purposes are the following: Banco Comercial Português, Banco Espírito Santo, Banco BPI, Banif, SGPS, Finibanco-Holding SGPS, Banco Santander, Banco Popular Español and Espírito Santo Financial Group.

Exceptions

This Regulation is not applicable to financial intermediaries that act as market maker of the shares at stake or in securities that give the right to its subscription, acquisition or conversion or similar financial effect, relating to the uncovered short positions affecting said shares and derived from said market making activity.

Entering into Force

The Regulation shall come into force on the day after publication, which is awaited at any time.