



BANKING & FINANCE | EXTRAORDINARY GRANTING OF PERSONAL GUARANTEES BY THE STATE

Law no. 60-A/2008 (the “Law”) published today establishes the possibility of extraordinary granting of personal guarantees by the state in order to reinforce financial stability and promote liquidity in financial markets (the “Guarantees”). These Guarantees are also subject, on a subsidiary basis, to Law no. 112/97, of 16 September (Legal Framework of Personal State Guarantees). For the purpose of the Guarantees, twenty billion euros shall be added to the 2008 state budget.

The Law applies to the granting by the Portuguese State of Guarantees to the performance of the obligations of Portuguese credit institutions within the scope of financing transactions, including transaction renewals, and sets forth the basis for presentation, analysis and decision of the request for the granting of Guarantees, as well as for their follow-up and supervision by the Portuguese Treasury Department, in articulation with the Bank of Portugal (“BdP”) and the Public Institute for the Management of Public Credit (“IGTCP”).

In accordance with the Law, the request for Guarantees must be presented to the BdP and the IGTCP. After analysis of such request, these entities shall send it, along with a fundamented decision proposal, to the member of government in charge of the public finances sector at that time, which shall be deciding on the same.

The nominal list of all credit institutions benefiting from the Guarantees (the “Beneficiaries”), with indication of the corresponding liabilities, duly discriminated, shall be published in a schedule to the General State Account, along with the total value of the state’s commitments under the Guarantees, a procedure that attempts to achieve transparency.

It should also be pointed out that the Law provides the Finance Minister with broad powers to set the regulatory framework under which the granting of the Guarantees shall take place, defining, through a Ministerial Order, several significant matters connected thereto, such as:

- (i) the information to be rendered by, and the ancillary obligations of, the Beneficiaries;
- (ii) the mechanisms for setting and reviewing the commissions to be paid by the Beneficiaries;
- (iii) the proceedings for disclosure of information and monitoring of the Beneficiaries while the Guarantees are outstanding; and
- (iv) the terms and conditions for the rendering of counter-guarantees.

The publication of the above mentioned Ministerial Order is now awaited, at any time, and will enable a more detailed analysis of the legal framework at stake and of its impact on the activities of credit institutions.

