



BANKING & FINANCE | Proposal of Law for the Reinforcement of the Financial Solidity of Credit Institutions

In the context of the challenges currently faced by the country's financial system, the Portuguese Council of Ministers issued the following statement:

“The Portuguese Council of Ministers approved, on 3 November 2011, a proposal of law which establishes measures aimed at strengthening the financial solidity of credit institutions in the context of the effort for the reinforcement of financial stability and availability of liquidity in financial markets.

Set within the measures to be adopted in the execution of the Financial and Economic Assistance Program, this proposal of law is intended to contribute to the reinforcement of the levels of Core Tier 1 capital of banking institutions, something which is looking crucial for the stability of the financial system, the security of depositors and the proper functioning of the economy.

The State's intervention in the recapitalization of these institutions is of a subsidiary and temporary nature, meant to last for five years at most, and should operate as a measure of last resort in relation to possible and preferable alternatives such as, for instance, injections of capital by private shareholders, be they Portuguese or foreign.

The proposal of law now approved thus applies in the context of credit institutions' capitalization processes, and employs financial instruments or means that ensure the eligibility as own funds (Core Tier 1) of the funds to be made available to credit institutions. For those purposes, the choice was for a simplification of the means through which the capitalization operation will take place, with emphasis on the following possibilities:

- An increase in capital of the credit institution;
- The purchase by the State of the credit institution's shares (or, if the institution is not a public limited company, other securities representative of its capital).

The legal framework laid out in the proposal of law under discussion, in an extremely difficult state of affairs brought about by the existing economic and financial instability, allows for an adequate and proportional balancing of the interests of all the parties involved, permitting the defence of the public interest which the State must in all circumstances uphold, whilst respecting the legal autonomy of the credit institutions and the rights of their respective shareholders.”

