



11 December 2014

Minimum Information Duties under Consumer Credit Contracts

Newly adopted Notice no. 10/2014 of the Bank of Portugal (“Notice”), published on 3 December 2014 in the Official Gazette (*Diário da República* no 234/2014, Series II, of 2 de December 2014), establishes minimum information duties under consumer credit contracts (“*contratos de crédito ao consumo*” and “*contratos de crédito ao consumidor*”) entered into under Decree-Law no. 359/91, of 21 of September and Decree-Law no. 133/2009, of 2 June. The Notice has a significant impact on electronic money institutions, financial institutions, credit institutions and payment institutions.

Background

The Notice has been adopted following Decree-Law no. 133/2009, of 2 June, as amended, which established a set of duties of information to be provided by credit institutions prior to entering into consumer credit contracts. In this regard, the Bank of Portugal had been attributed the task of specifying the terms, periodicity and formalities according to which said information had to be provided.

Object and material scope

As such, the Notice specifies the duties of periodic information by the institutions to their clients regarding:

- > Consumer credit contracts (“*contratos de crédito ao consumo*”) entered into under Decree-Law no. 259/91, of 21 September, as amended, except for those in the form of an overdraft facility which may still be in force; and
- > Consumer credit contracts (“*contratos de crédito aos consumidores*”) regulated by Decree-Law no. 133/2009, of 2 June, as amended, except for credit limit overruns in the form of an overdraft facility.

General duty of information (Arts. 4 and 6)

Without prejudice to any other legal and regulatory requirements, institutions shall make a number of minimum information available to the consumer through a statement, as follows:

- > During the period covered by credit card contracts, credit facility contracts and banking current account contracts, information shall be given on a monthly basis or ,at least and under certain conditions only, on a yearly basis; and
- > During the period covered by personal credit contracts and auto loan contracts, information shall be given prior to maturity of the subsequent instalment, with a periodicity equivalent to that stated on the respective agreement but always at least on an annual basis.

Information to be provided to customers is detailed in paragraphs 1 and 2 of article 4 of the Notice.

Complementary duty of information (Arts. 5 and 6)

Institutions shall also provide specific information on the following situations, again through a statement, as follows:

- > Breach of contractual obligations by the consumer (except if the breach is covered by an extrajudicial settlement procedure for situations of breaches (*PERSI*), where the duty to provide information is only applicable upon extinction of said procedure);
- > Settlement of situations of breaches by the consumer;
- > Early repayment of the credit contract by the consumer.

As a general rule, the information shall be provided with the mentioned statement. When this is not the case, the information shall be made available to the consumer within 15 days as of the verification of any of the above mentioned situations.

Information to be provided to customers is detailed in paragraphs 2, 4 and 5 of article 5 of the Notice.

Form and formalities (Arts. 3 and 7)

The duty to provide information shall be done in paper or in any other durable medium, except if the consumer expressly requests the information in paper, having the institution the obligation to use the terms and expressions provided for in the Notice and the definitions of its Annex.

In any case, the information provided for in the Notice and provided to the consumer shall be complete, true, up-to-date, clear, objective and legible.

Entry into effect (Art. 8)

The Notice shall enter into effect on 1 July 2015.

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