



VIEIRA DE ALMEIDA
& Associados Sociedade de Advogados, RL

FLASH

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NEWS

BANKING & FINANCE | Decree-Law no. 52/2010: Transposes Directive 2007/44/EC as regards Procedural Rules and Evaluation Criteria for the Prudential Assessment of Acquisitions and Increase of Holdings in the Financial Sector

Decree-Law no. 52/2010, of May 26 (“**DL 52/2010**”) entered into force last May 27th and transposed into Portugal Directive 2007/44/EC of the European Parliament and of the Council, dated of 5 September, as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector, including credit institutions, assurance, insurance or re-insurance undertakings and investment firms.

DL 52/2010 sets forth new thresholds for the obligation to communicate envisaged acquisitions, increases and disposals of qualified holdings in financial entities, simultaneously establishing new rules for the calculation of such holdings. One of the most visible measures adopted corresponds to the establishment of a 10% threshold for a qualifying holding in a financial institution, as opposed to the previous lower thresholds.

With respect to the powers attributed to supervision authorities, DL 52/2010 reduces the period during which the Bank of Portugal is required to take a decision, and also gives additional supervision powers to the CMVM regarding qualified holdings in markets’ management entities and investment advice companies.

Formally, DL 52/2010 amends the Portuguese Credit Institutions and Financial Companies Framework (approved by Decree-Law 298/98, of 31 December), Decree-Law 94-B/98, of 17 April (requirements to perform insurance and re-insurance activities), Decree-Law 357-B/2007, of 31 October (companies providing advice in investment in financial instruments and reception and execution of orders on behalf of clients) and Decree-Law 357-C/2007, of 31 October (management entities of regulated markets, multilateral systems, settlement systems which operate as central counterparty of management companies of settlement systems or management companies of central securities depositories).

DL 52/2010 establishes a period of 60 days as of the date in which it enters into force during which any qualified holdings currently held by the addressees have to be notified to the relevant supervision authorities as a result of the new rules applicable to the calculation of such holdings. Nevertheless, it is expressly stated that the amendments being introduced do not apply to the notifications currently pending approval.

