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PORTUGUESE STATE GUARANTEES SCHEME UNDER LAW 60-A/2008, OCTOBER 20TH AND ORDINANCE 1219-A/2008, OCTOBER 23RD

Portugal

PORTUGUESE STATE GUARANTEES SCHEME
UNDER LAW 60-A/2008, OCTOBER 20TH
AND ORDINANCE 1219-A/2008, OCTOBER 23RD

OCTOBER 23RD

1- Scope

Granting guarantees to credit institutions with registered office in Portugal.

2- Aim

Allow the re-establishment of liquidity in financial markets so as to preserve financial stability and the availability of credit to the economy, without generating undue distortions of competition between financial institutions, or intervening in the liquidity management competencies of the Eurosystem.

3- Total amount of guarantees

Maximum value of 20 billion euros.

4- Eligible entities to benefit from guarantees

Credit institutions with registered office in Portugal.

5- Period for granting the guarantee

The granting or renewing of State guarantees under this scheme can only be effective until 31 December 2009 at latest, considering that the scheme has arisen in the current circumstances of the financial system.

6- Nature of the commitments eligible to be covered by the guarantee

Commitments undertaken by credit institutions in financing or unsubordinated debt issue contracts, with a minimum maturity of three months and maximum maturity of three years, denominated in euros; the maximum maturity can exceptionally be five years, following reasoned recommendation by the Portuguese Central Bank.

Excluded from this scheme are interbank deposit operations in the money market, subordinated debt operations, operations already underwritten by any other type of guarantee, as well as financing operations in jurisdictions not complying with internationally accepted transparency standards.

7- Fee

According to the ECB Recommendation on Government Guarantees on Bank Debts. See Annex 1.

8- Decision of awarding the guarantee

Decision is undertaken by the Ministry of Finance, under a duly reasoned recommendation of the Banco de Portugal – Portuguese Central Bank - and the Instituto de Gestão da Tesouraria e do Crédito Público – Portuguese Debt Institute.

9- Monitoring

By the Ministry of Finance and the Portuguese Central Bank.

10- Consequences under the execution of a guarantee

Until full repayment of the loan, the State can, if and to the extent deemed necessary to protect the public interest:

a) Convert the credit it holds in the beneficiary entity into share capital in the same, namely through the issue of preferential shares, following the consultation of the Portuguese Central Bank;

b) Decide on the adoption of good corporate governance principles, on dividend policy and the remuneration of the officers of the management and supervisory bodies;

c) Appoint one or more temporary directors.

11- Revision of the scheme

Revised at any time, particularly if market conditions justify it or if such is required for Euro Zone and European Union coordination.

Irrespective of this reasons, the scheme will always be reappraised within a maximum of six months.

12- Annexes

Annex 1: Fees

Annex 2: Term Sheet

Annex 3: Law n. 60-A/2008, 20th October

Annex 4: Ordinance no. 1219-A/2008, 23rd October

ANNEX 1

Fees

Maturity of guaranteed finance contract	Fee
Greater than or equal to 3 months and less than or equal to 1 year	50 basis ponts
Exceeding 1 year	"Relevant Credit Default Swap Spread" + 50 basis points

Beneficiary entity	Relevant Credit Default Swap Spread calculation formula
a) Credit institution with representative Credit Default Swap data	The lower of the follwing values: i) The median value of 5-year Credit Default Swap spreads, for the credit institution in question, during the period from 1January 2007 to 31 August 2008; ii) The median value of 5-year Credit Default Swap spreads for a representative sample of institutions with the same credit rating as the institution in question, as defined by the Eurosystem, during the period from 1 January 2007 to 31 August 2008.
b) Credit institutions without Credit Default Swap data, or without representative Credit Default Swap data:	
i) Credit institutions with a credit rating of "A" or higher	The median value of 5-year Credit Default Swap spreads, for a representative sample of institutions with the same credit rating as the institution in quaestion, as defined by Eurosystem, during the period from 1 January 2007 to 31 August 2008.
ii) Credit institutions without a credit rating or with a credit rating below "A"	The median value of 5-year Credit Default Swap spreads, for a representative sample of institutions defined by the Eurosystem, with a credit rating of "A", during the period from 1 January 2007 to 31 August 2008.

ANNEX 2

Term Sheet

Total amount of guarantees	€ 20 billion
Eligible entities	Credit institutions with registered office in Portugal
Term	Until 31 December 2009
Covered liabilities	Borrowings, unsubordinated debt, with a maturity from 3 months to 3 years denominated in euros Maturity can exceptionally be of 5 years
Excluded liabilities	Interbank deposit operations in the money market, subordinated debt operations, operations already underwritten by any other type of guarantee, as well as financing operations in jurisdictions not complying with internationally accepted transparency standards
Application	Decision is undertaken by the Ministry of Finance, under Portuguese Central Bank and Portuguese Debt Institute proposal
Consequences under the execution of a guarantee	Until full repayment of the loan, the State can, if and to the extent deemed necessary to protect the public interest: *a)* Convert the credit into share capital, namely through the issue of

	preferential shares; *b)* Decide on the adoption of good corporate governance principles, on dividend policy and the remuneration of the officers of the management and supervisory bodies; *c)* Appoint one or more temporary directors.
Revision of the scheme	At any time and mandatory after 6 months
Fee	See Annex 1

ANNEX 3

Law n. 60-A/2008
20th October

Establishes the possibility of the State granting extraordinary guarantees in the financial system

The Portuguese Parliament decrees, pursuant to Article 161(c) of the Portuguese Constitution, the following:

Article 1
Object

This law establishes the possibility of the State standing extraordinary guarantee, in order to strengthen financial stability and the availability of liquidity in financial markets.

Article 2
Scope

This law applies to the granting of State guarantees on compliance with loan obligations, including the renewal of the respective operations by credit institutions with registered office in Portugal.

Article 3
Standing guarantee by the State

1 - The State's standing of guarantee, as established in the preceding Article, can only be undertaken in accordance with the rules established herein, otherwise it is considered null and void.

2 - Infringement of the provisions established herein by members of the Government

will be considered a crime specific to holders of public office, punishable under the terms of Article 14 of Law no. 34/87 of 16 July.

Article 4

Appraisal of applications and decision

1 - Applications for a State guarantee will include a draft of the financing contract defining, in particular, the parties intervening in the operation and the financial terms and conditions.

2 - The application is submitted to the Portuguese Central Bank and Instituto de Gestão da Tesouraria e do Crédito Público, I. P., which shall analyse it and communicate the recommended decision with due grounds to the member of the Government responsible for the finance area.

3 - The member of the Government responsible for the finance area takes the decision on granting State guarantees. The decision may be delegated..

Article 5

Deadline for the start of the operation

1 - The State guarantee expires one month from the date on which the beneficiary credit institution is made aware of the decision to stand guarantee, if the financing operation has not been initiated in the meantime.

2 - Notwithstanding the provisions of the preceding paragraph, a longer timeframe can be defined on granting the guarantee, provided due grounds are specifically established.

Article 6

Supervision and monitoring

1 - The Directorate General for the Treasury and Finance, notwithstanding the competences of all other supervisory bodies, will supervise compliance with the costs arising from the execution of the guarantees stood under this law, as well monitor and guarantee the management of the guarantees subsequent to issue.

2 - The competences established in the preceding paragraph are performed in liaison with the Portuguese Central Bank and Instituto de Gestão da Tesouraria e do Crédito Público, I. P., pursuant to the protocol to be entered into with these two bodies, contingent on the approval of the member of the Government responsible for the finance area.

3 - The Minister of Finance will notify the Portuguese Parliament, on a half-yearly basis, of all the extraordinary guarantees granted in the financial system under this law, as well as their execution.

Article 7

Beneficiaries and respective liabilities

The nominative report of the beneficiaries of State guarantees granted under this law is published among the annexes to the State General Account. The published data will include beneficiary's liabilities, as at 31 December of each year, as well as the total liability of the State arising from the guarantees stood, duly detailed and with reference to the same date.

Article 8

Regulation

The member of the Government responsible for the finance area will define by Ordinance:

a) The information to be submitted in conjunction with the State guarantee application for appraisal purposes;

b) The timeframe for issuing the recommended decision referred to in Article 4(2) herein, following consultation with the Portuguese Central Bank and Instituto de Gestão da Tesouraria e do Crédito Público, I. P., as well as the timeframe for the final decision as regards the application;

c) The data to be provided and all other additional obligations to be complied with by the guarantee beneficiaries;

d) The mechanisms for setting and reviewing the fees to be paid by the guarantee beneficiaries, in accordance with appropriate market conditions;

e) Information reporting procedures and monitorisation of beneficiaries while the guarantee is in force;

f) The general mechanisms for executing guarantees;

g) The terms concerning the provision of counter-guarantees;

h) Other general conditions applicable to the granting of the guarantee.

Article 9

Subsidiary scheme

The scheme set forth in Law no. 112/97 of 16 September is subsidiarily applied to the granting of the State guarantees envisaged herein, with the necessary adaptations and where no incompatibility arises.

Article 10

Exceptional guarantee scheme

Exceptionally, 20 billion euros are added to the limit envisaged in Article 105(1) of Law no. 67-A/2007 of 31 December, which approves the State Budget for 2008, for the granting of guarantees pursuant to this law.

Article 11

Entry into force

This law comes into force on the day following its publication.

ANNEX 4

Ordinance no. 1219-A/2008

23rd October

Law no. 60-A/2008 of 20 October established the possibility of the State standing extraordinary guarantee under the initiative to strengthen financial stability and provide liquidity support to financial markets.

The granting of guarantees by the State under this initiative is intended to ensure the compliance of the commitments by credit institutions with registered office in Portugal in financing or refinancing operations.

In general terms, this scheme aims to create the conditions that allow the re-establishment of liquidity in financial markets so as to preserve financial stability and the availability of credit to the economy. Thus, all credit institutions with registered office in Portugal complying with solvency criteria established in law can request a guarantee of the State, even though, in the current environment, they are faced with restrictions on access to liquidity.

A concern addressed in the drafting of this scheme was to seek to safeguard general market interests, without generating undue distortions of competition between financial institutions, or intervening in the liquidity management competencies of the Eurosystem.

Accordingly, a special scheme was established, which seeks to ensure the swiftness and agility of procedures and the intervention of the entities with a significant role in the implementation of that scheme, namely the Portuguese Central bank and the Instituto de Gestão da Tesouraria e do Crédito Público, I.P..

This Ordinance, consequent to the faculty established pursuant to Article 8 of Law no. 60-A/2008 of 20 October, establishes the specific procedures of the process of granting the guarantee, the mechanisms for setting the remuneration concerned, the procedures concerning the monitoring of the beneficiary entities, the general rules governing the execution of the guarantees and other supplementary conditions.

This specific scheme for granting guarantees has arisen in the current climate of the financial system, where liquidity restrictions of financial markets are current and, consequently, credit institutions are under heavy pressure as regards access to and the conditions established for financing and refinancing. Considering these exceptional

circumstances, the granting of State guarantees under Law no. 60-A/2008 of 20 October is temporary in nature, effective only until 31 December 2009. On the other hand, credit institutions' commitments undertaken in finance contracts covered by this guarantee cannot, in principle, exceed the term of 3 years from the financing approval date.
This scheme can be revised at any time, particularly if market conditions justify it or if such is required for Euro Zone and European Union coordination. This scheme, irrespective of the referred to reasons, will always undergo reappraisal within a maximum of six months.

The Portuguese Central Bank and the Instituto de Gestão da Tesouraria e do Crédito Público, I.P. were consulted.

Thus:

The Government orders, through the Minister of State and Finance, in compliance with Article 8 of Law no. 60-A/2008 of 20 October, the following:

Article 1

1 - Credit institutions with registered office in Portugal can, pursuant to Law no. 60-A/2008 of 20 October and in conformity with the provisions of this Ordinance, request the extraordinary granting of a State guarantee pertaining to the commitments undertaken in finance contracts, including any renewals.
2 – The State guarantees referred to in the preceding paragraph can be granted or renewed on or before 31 December 2009.

Article 2

1 – The granting by the State of guarantees under this scheme has the exclusive purpose of guaranteeing the compliance of the commitments undertaken in financing or unsubordinated debt issue contracts, with a minimum maturity of three months and maximum maturity of three years, denominated in euros.
2 – The maximum maturity referred to in the previous paragraph can exceptionally be five years, following reasoned recommendation by the Portuguese Central Bank.

3 - Excluded from this scheme are interbank deposit operations in the money market, subordinated debt operations, operations already underwritten by any other type of guarantee, as well as financing operations in jurisdictions not complying with internationally accepted transparency standards.

Article 3

1 - The application for State guarantee by credit institutions must be submitted to the Portuguese Central Bank, and include the following:

a) The identification of the core details of the operation to be guaranteed and the reasons for such;

b) The identification of the parties to the finance contract;

c) Proof that the guarantee is essential to ensuring the applicant's normal financing;

d) A draft of the finance contract or documentation relative to the issue of unsubordinated debt, as well as finance usage and amortisation plans and the relevant interest rate;

e) Declaration by the applicant authorising the Portuguese Central Bank to send all the information received from the applicant or any other information held by the Portuguese Central Bank to the Directorate General for the Treasury and Finance and the Instituto de Gestão da Tesouraria e do Crédito Público, I.P. for the analysis of the application;

f) Proof that the requirements in law and in the articles of association necessary for any execution of the guarantee have been verified.

2 – The Portuguese Central Bank can request, on its own initiative or on request by the Instituto de Gestão da Tesouraria e do Crédito Público, I.P., additional information from the applicants deemed to be necessary to the analysis of the application.

3 – The application submitted to the Portuguese Central Bank pursuant to paragraph 1 is likewise considered to have been submitted when made to the Instituto de Gestão da Tesouraria e do Crédito Público, I.P..

Article 4

1 - The granting of the State guarantee is dependent on the payment of a fee by the beneficiary credit institution, established in accordance to market conditions and taking into account the degree of risk.

2 – The value of the fee is established according to the Annex to this Ordinance.

3 – The fee falls due on the guaranteed finance contract's interest payment date and it is billed by the Directorate General for the Treasury and Finance.
4 – The value of the fee can be revised by the State in the event of a change in circumstances, particularly in the event of the normalisation of the access conditions to liquidity in financial markets.
5 – The provisions of this Article do not jeopardise the possibility of counter-guarantees being provided, and where such is the case the value of the fee can be duly adjusted.

Article 5

1 – The Portuguese Central Bank and the Instituto de Gestão da Tesouraria e do Crédito Público, I.P. take into consideration, in particular, the beneficiary entity's contribution to the financing of the economy and the credit's financial conditions and its necessity, when analysing the application.
2 – Applications are analysed, notwithstanding compliance with the terms defined in the following article, taking into consideration the urgency of the financing and the respective submittal date.

Article 6

1 - The Portuguese Central Bank and Instituto de Gestão da Tesouraria e do Crédito Público, I. P. will submit a duly reasoned recommended decision to the member of the Government responsible for finance within 8 work days of the submittal of the application pursuant to Article 3.
2 – The decision on the application envisaged in the preceding paragraph must be taken within two work days, notwithstanding the authority to return the process to the responsible entities to obtain further clarification, in which event the deadline is suspended.
3 – The deadlines referred to in the previous paragraphs can be extended for identical periods if the operation's complexity justifies such.

Article 7

The Portuguese Central Bank is also responsible for:

a) Analysing the economic and financial situation of the beneficiary credit institution and submitting monitoring indicators;

b) Monitoring beneficiaries while the guarantee is in force, by using prudential supervisory data or other it may request;
c) Sending the necessary monitoring and supervising information referred to in Article 6 of Law no. 60-A/2008 of 20 October to the Directorate General for the Treasury and Finance and the Instituto de Gestão da Tesouraria e do Crédito Público, I.P..

Article 8

Credit institutions granted a State guarantee must send the Directorate General for the Treasury and Finance a copy of the documents proving the amortisation of capital and the payment of interest relative to the financing operations, indicating the sums that are no longer the object of guarantee by the State, within five days of the occurrence of the relevant payments.

Article 9

Credit institutions granted a State guarantee must immediately notify the Directorate General for the Treasury and Finance of any amendment to the conditions that formed the basis for the provision of the guarantee.

Article 10

In the event of the guarantee's execution as the result of default by the beneficiary entity, the State is subrogated to the rights of the creditor until full repayment of the loan, and the State can, if and to the extent deemed necessary to protect its property:

a) Convert the credit it holds in the beneficiary entity into share capital in the same, namely through the issue of preferential shares, following the consultation of the Portuguese Central Bank;
b) Decide on the adoption of good corporate governance principles, on dividend policy and the remuneration of the officers of the management and supervisory bodies;
c) Appoint one or more temporary directors, pursuant to and with the powers established in Article 143 of the General Scheme concerning Credit Institutions and Financial Undertakings, and where the competencies established therein for the Portuguese Central Bank are considered to be assigned to the member of the Government responsible for finance.

Article 11

This Ordinance comes into force on the day following its publication.

The Minister of State and Finance

Fernando Teixeira dos Santos

Annex of the Ordinance no. 1219-A/2008, 23rd October

1. The value of the fees is established according to the following table:

Maturity of guaranteed finance contract	Fee
Greater than or equal to 3 months and less than or equal to 1 year	50 basis ponts
Exceeding 1 year	"Relevant Credit Default Swap Spread" + 50 basis points

2. The Relevant Credit Default Swap Spread referred to in no.1 is calculated according to the following table:

Beneficiary entity	Relevant Credit Default Swap Spread calculation formula
a) Credit institution with representative Credit Default Swap data	The lower of the follwing values: i) The median value of 5-year Credit Default Swap spreads, for the credit institution in question, during the period from 1January 2007 to 31 August 2008; ii) The median value of 5-year Credit Default Swap spreads for a representative sample of institutions with the same credit rating as the institution in question, as defined by the Eurosystem, during the period from 1 January 2007 to 31 August 2008.
b) Credit institutions without Credit Default Swap data, or without representative Credit Default Swap data:	
i) Credit institutions with a credit rating of "A" or higher	The median value of 5-year Credit Default Swap spreads, for a representative sample of institutions with the same credit rating as the institution in quaestion, as defined by Eurosystem, during the period from 1 January 2007 to 31 August 2008.
ii) Credit institutions without a credit rating or with a credit rating below "A"	The median value of 5-year Credit Default Swap spreads, for a representative sample of institutions defined by the Eurosystem, with a credit rating of "A", during the period from 1 January 2007 to 31 August 2008.

3. For the purpose of calculating the relevant Credit Default Swap spread referred to in subparagraph (a) of no. 2, the Portuguese Central Bank is responsible for ascertaining if the credit institution in question has representative Credit Default Swap data.

4. For the purpose of calculating the relevant Credit Default Swap spread referred to in subparagraph (b) of no. 2, the Portuguese Central Bank can, following reasoned assessment and whenever necessary, adapt the value of the relevant Credit Default Swap spread.