



**BANCO DE PORTUGAL**  
EUROSYSTEM

Ms Chiara Zilioli  
Chairperson – Legal Committee  
European Central Bank

Lisboa, 18 October 2016

**Re: Questionnaire on assigning powers to the NCB to assess competition and issue directions to lenders with regard to interest rates (2016/101/LEGCO) – First WP**

Dear Chiara,  
Dear Colleagues,

[Redacted]  
[Redacted]  
[Redacted].

Please find below our replies to the questions circulated in your cover letter dated 12 October 2016:

1. ***Has your central bank been assigned with tasks relating to the protection of competition? Has it been assigned similar powers to regularly assess the state of competition? Please describe briefly the scope of those tasks, also referring to the legal basis.***

The responsibility for promoting and protecting competition across markets primarily rests with the Competition Authority. The Competition Authority has enforcement powers over all sectors of the economy, including regulated sectors, but is legally bound to request Banco de Portugal's opinion whenever an inquiry is initiated into anti-competitive practices engaged in by credit institutions. Banco de Portugal must therefore be consulted by the Competition Authority as regards any decision involving

entities in the respective scope of supervision (Article 88 of the General Framework of Credit Institutions and Financial Companies, approved by Decree-Law No 298/92 of 31 December). Within the limits of this consultative role, Banco de Portugal carries the responsibility of making assessments on competition issues all through its regulatory remit. The regular and efficient functioning of financial markets is clearly an objective of Banco de Portugal.

In Portugal, a self-regulatory initiative on bank account switching has been in place since 2010. This initiative (“Common Principles on Bank Account Switching”) was initially developed by the European Banking Industry Committee (EBIC), of which the Portuguese Banks Association (APB) is a member, and has been adopted by several Portuguese credit institutions. By adopting these Principles, credit institutions commit themselves to make available for customers a service of bank account switching, with minimum standards in terms of timing, information provided and cooperation among the institutions involved.

In what regards credit products, legal restrictions apply to the fees charged by credit institutions for the early repayment of both mortgage and consumer credits. By decreasing the switching costs, this measure effectively promotes the switching in credit contracts (Decree-Laws No 349/98 of 11 November and No 51/2007 of 7 March, which govern the commercial practices and information duties of credit institutions within the scope of housing mortgage credit, introducing a cap on the penalty fees charged in case of early repayment of housing loans and Decree-Law No 133/2009 of 2 June, which establishes the legal framework applicable to consumer credit transposing Directive no. 2008/48/EC of 23 April and also introduces the regime of maximum annual rates of charge that credit institutions must comply with in consumer contracts).

Banco de Portugal, as the banking conduct supervision authority, was given by the national legislator the mandate to supervise the above referred rules and to increase transparency for consumers (which fosters competition).

Impact on competition is also one of the criteria that Banco de Portugal is required to follow according to the legal framework that governs the recapitalization of distressed credit institutions, either when proposing the use of public funds or when adopting certain specific decisions, namely decisions allowing for exceptions to the ban of acquisitions by institutions under a recapitalization programme (Articles 2 and 8-B of Law No 63-A/2008 of 24 November).

2. ***Has your central bank been assigned with powers to regulate the interest rates charged by banks in respect of loans and/or the savings remuneration offered by banks in respect of deposits; and/or the application of usury laws in your respective jurisdictions? Please describe briefly the scope of those powers, also referring to the legal basis.***

Since January 2010, Portugal has had an interest rate cap framework in place (Decree-Law 133/2009 of 2 June) that applies to consumer credit agreements unsecured by mortgage, issued by all credit institutions, including banks and non-banks. This framework was introduced in parallel with the transposition of the EU Consumer Credit Directive (Directive 2008/48/EC) to the national law. The main objective of the introduction of the interest rate cap framework was to enhance the access to a diversified array of unsecured credit products by the consumer, coupled with adequate consumer protection rules.

As the banking conduct supervision authority, Banco de Portugal was given by the national legislator the mandate to calculate and publish, on a quarterly basis, the maximum interest rate for each type of consumer credit, and to define the relevant types of credit.

In Portugal, interest rate caps are based on the APR (Annual Percentage Rate of Charge), a measure that follows the principles and assumptions laid down in the Consumer Credit Directive. This measure incorporates all the credit costs: interest, fees, compulsory insurance and other costs associated with the contract. Although the use of the APR has some caveats, as it is sensitive to the amount and the maturity of the contract, it is the measure that best reflects the total cost of the loan.

Interest rate caps are based on the APRs practiced by credit institutions in the market. Using micro-data reported by credit institutions on a monthly basis for all new consumer credit agreements concluded in the previous month, Banco de Portugal calculates on a quarterly basis the average APR for each type of consumer credit and, based on these averages, defines the APR cap for each type of consumer credit. In view of the diversity of the characteristics of the consumer credit products offered by credit institutions Banco de Portugal grouped the different types of loans into categories of personal loans, car loans and revolving credit.

Banco de Portugal discloses the APR caps applicable to each type of consumer credit on a quarterly basis. This disclosure is made by a Regulation issued to credit institutions and through the Bank Customer Website ([clientebancario.bportugal.pt](http://clientebancario.bportugal.pt) – only in Portuguese) of Banco de Portugal. As a way to provide financial information for market participants and give back some of the cost of reporting to credit institutions Banco de Portugal also publishes in this Website a monthly brief description of the evolution of the consumer credit market as well as a more detailed analysis in a yearly publication, the Retail Banking Markets Monitoring Report.

Until June 2013, interest rate caps were defined for each type of consumer credit agreement as the average value of the APR of the agreements concluded in the previous quarter, increased by one third. Since July 2013, the maximum APR for each type of consumer credit agreement in each quarter is defined as the average value of the APR of the agreements concluded in the previous quarter, plus 25%; additionally, the maximum APR for each type of consumer credit agreements cannot be higher than the average APR of all consumer credit agreements (irrespective of the type) concluded in the previous quarter, plus 50%. The main aim of the change was to avoid the significant increases in the maximum APR for a specific type of consumer credit and the possible arbitrage incentives between different types of credit, namely between personal and revolving credit.

Banco de Portugal uses the information reported monthly on consumer credit agreements not only to calculate APR caps, but also to oversee credit institutions' compliance with the established caps. Oversight of APR caps is also carried out through on-site and off-site inspections. Banco de Portugal imposes sanctions (fines and other additional penalties) when credit institutions fail to comply with the APR cap framework. In addition, when a credit agreement is concluded with an APR exceeding the cap, the APR is automatically reduced. From January 2010 to June 2013, APRs were reduced to that cap value, since July 2013 APRs are reduced to half of that cap value.



In addition, within its mandate as the national macro-prudential authority, Banco de Portugal may also adopt measures (and indeed has done so in the past, specifically by

means of deductions to own funds) aimed at removing or disincentivizing interest-rate competition-related risky practices endangering the financial stability.

3. ***Has another public authority, such as the national competition or consumer protection authority, been conferred with such tasks to assess competition, or to regulate interest rates on loans or deposit rates offered by financial institutions? How do these authorities interact with the central bank and/or the prudential supervisor in carrying out such tasks? Please describe briefly the scope of those powers, also referring to the legal basis.***

As mentioned above, the responsibility for promoting and protecting competition across markets primarily rests with the Competition Authority, but doesn't involve any regulatory powers over interest rates.

Banco de Portugal does not have powers to intervene to address structural features of markets that inhibit competition, e.g. high concentration or vertical integration. The adequate intervention of Banco de Portugal in such cases is to notify the Competition Authority about the existence of structural features of markets that inhibit competition so the competition authority may take the adequate measures.

Kind regards,

*[signed]*



*[signed]*



