

BANKING LAW

REGIME ON COMMERCIAL PRACTICES IN THE CREDIT HABITATION CONTRACTS

EXTENSION OF THE APPLICATION SCOPE

On October 18, it was published Decree Law 226/2012, which intention is to extend the application scope of the Regime on Commercial Practices in the Credit Habitation Contracts (the "Regime") to the other credit agreements guaranteed with a mortgage, or through other right over a property and executed with private banking clients.

The Regime was approved by Decree-Law 51/2007, of March 7, and aimed to regulate the financial institution commercial practices, in order to insure the transparency of the information rendered by such intuitions within the execution, renegotiation and transfer of the credit agreements for the acquisition, construction and execution of works in own permanent housing, secondary housing or for lease, as well as for the acquisition of plots of land for the construction of own housing.

Therefore, the main measures established by the mentioned regime were:

- The limitation of the fees to be charged by credit institutions in situations of partial or full refund, which now cannot exceed (i) 0.5% of the capital to be repaid in contracts with a variable interest rate, and (ii) 2% in contracts signed with a fixed interest rate, saving those situations where it has been contracted by the parties a fee inferior to the one referred or where it has been agreed an exemption to the same.
- To grant to the mentioned contracts and relevant advertising, a higher degree of transparency, particularly with regard to the calculation of the TAE (effective annual rate) applied by the credit institution.
- Standardize the criteria used in the interest calculation counting. The criterion adopted was later clarified by Decree-Law 88/2008 of May 29, which amended the Regime, being, currently, foreseen a reference base of 360 days for the interest calculation and for the underlying indexing to the determination of the interest rate, leading to the use of a referential of 30 days/month for the calculation of that said interest.

Even before Decree-Law 226/2012 now published, the Regime had already been amended (by Decree-Law 192/2009, of 17 August) in order to extend its application

REGIME ON COMMERCIAL PRACTICES IN THE CREDIT HABITATION CONTRACTS (CONTINUATION)

scope to credit agreements which mortgage relates, wholly or partly, to a property that simultaneously guarantees a credit agreement executed with the same institution and is destined for the acquisition, construction and execution of works in own permanent housing, secondary housing or for lease, as well as for the acquisition of plots of land for the construction of own housing.

With the publication of this Decree-Law 226/2012, the scope of the Regime will be further extended, as from January 17, 2013, since the same will also include the credit agreements secured by a mortgage over a property, or by another right over a property and executed with individual persons acting with objectives unrelated to their commercial or professional activity

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