



COVID-19

Legal Insights no. 11

Exceptional measures to protect the credits of families, companies, private institutions of social solidarity and other entities of the social economy, as well as a special regime of personal guarantees by the State, within COVID-19 pandemic.

Decree-Law no. 10-J/2020 of March 26, establishes exceptional measures to protect the credits of families, companies, private institutions of social solidarity and other entities of the social economy, as well as a special regime of personal guarantees by the State, within the scope of the COVID-19 disease pandemic.

The highlight of this diploma is the creation of measures to protect and support liquidity and treasury, made possible by deferring the fulfillment of the respective beneficiaries' obligations vis-à-vis the financial system.

Among the list of beneficiary entities are the **companies** which cumulatively fulfill the following requirements:

- i.** Have their headquarters and carry out their economic activity in Portugal;
- ii.** Employ less than 250 people and have an annual turnover of 50 million euros or less or have a total annual balance sheet which does not exceed 43 million euros; and
- iii.** With reference to March 18 of 2020, to not be in default for more than 90 days of payments to the credit institutions and financial companies covered by this diploma, or, in case they are, if the value of the credits in default are considered not-significant¹;
- iv.** To not be in a situation of insolvency, suspension or assignment of payments, or have the aforementioned payments in execution by any of the creditor institutions as of March 18 of 2020;
- v.** Have their situation regularized with the Tax Authorities and Social Security, within the meaning.

The special protection framework of this Decree-Law is equally applicable to:

- **Natural persons** who fulfill the requirements **iii** and **v**, have their residence in Portugal and are in a situation of prophylactic isolation or disease or providing assistance to children or grandchildren², or who have been placed under reduction of the normal working period or suspension of the

¹ According to the provisions of Bank of Portugal Notice no. 2/2019 and Regulation (EU) 2018/1845 of the European Central Bank, of 21 November 2018.

² Pursuant to Decree-Law no. 10-A/2020, of 13 March, in its current version.

employment contract, due to the ensued business crisis, who are in a registered unemployment situation in the Institute for Employment and Professional Training, as well as self-employed persons who are eligible for extraordinary support due to the reduction of their economic activity³, as well as those workers whose business establishments or activity has been targeted by lockdown measures determined during the period of the state of emergency⁴;

- **Sole proprietors**, as well as private social solidarity institutions, non-profit associations and other entities of the social economy - except those whose annual gross quota of social security benefits, managed under capitalization, exceeds 5 million euros and the total gross value of the funds associated with the respective financing exceeds 25 million euros - which, on March 26 of 2020, fulfill the conditions referred to in paragraphs **iii** and **v** and have their residence or headquarters in Portugal; and
- Companies that, regardless of their size, fulfill the requirements foreseen in paragraphs **i**, **iii**, **iv** e **v** as of March 26 of 2020, excluding those who are a part of the financial sector.

The diploma in question is applicable to credit granting operations with the beneficiary entities by credit institutions, financial credit companies, investment companies, financial leasing companies, factoring companies and mutual guarantee companies, as well as by branches of credit institutions and financial institutions operating in Portugal⁵.

However, credit or financing transactions for the purchase of securities or the acquisition of positions in other financial instruments, credit granted to beneficiaries of schemes, subsidies or benefits, namely tax, for the establishment of headquarters or residence in Portugal are excluded, including for investment activities, with the exception of citizens covered by Programa Regressar, and credit granted to companies for individual use through credit cards of members of the director's board, supervisory bodies, workers or other employees.

³ In the terms provided for in article 26 of Decree-Law no. 10-A/2020, of 13 March.

⁴ Conforme disposto no artigo 7.º do Decreto n.º 2-A/2020, de 20 de março.

⁵ Hereinafter referred to as "institutions" only.

The beneficiary entities benefit from the following support measures:

- i. Prohibition of total or partial revocation** of credit lines contracted and loans granted, in the amounts contracted by March 27 of 2020, during the period in which this measure is in force;
- ii. Extension**, for a period equal to the validity of this measure, of all credits with capital payment at the end of the contract, in effect on March 27 of 2020, together, and under the same terms, with all their associated elements, including interest payments, guarantees, namely those provided through insurance or credit rights;
- iii. Suspension**, regarding credits with partial capital repayment in the respective installments or with partial maturity of other cash payments, during the period in which the present measure is in force, of the payment of capital, rents and interest with expected maturity until the end of that period, being the contractual payment plan for the installments referring to these **automatically extended** for a period identical to the suspension, in order to ensure that there are no charges other than those that may arise from fluctuations of the reference interest rate underlying to the contract, and, as well as the **extension of all the elements associated with the contracts covered by this measure, including guarantees.**

In order to access the aforementioned measures, the beneficiary entities must submit to the lending institution a declaration of adherence to the moratoriums⁶, accompanied by documentation proving the regularity of the applicant's tax and contributive situation.

The lending institutions must apply the protective measures within a maximum of five working days after receiving the declaration and supporting documents, with reference to the date of delivery of the declaration. If the applicant is not in a regularized tax and contributive situation, the institution must inform them of this fact within a maximum period of three working days, using the same means used by the applicant to submit the declaration and supporting documentation.

⁶ In the case of natural persons and sole proprietors, this declaration must be signed by the borrower; in the case of companies and private social solidarity institutions, as well as non-profit associations and other entities of the social economy, it must be signed by their legal representatives.

Decree-Law no. 10-J/2020 of March 26 also provides for the possibility of the State and other legal persons governed by public law issuing personal guarantees, within the maximum limits provided for in the State Budget Law.

Finally, a special regime is established under which mutual guarantee societies can issue guarantees to beneficiaries or other legal entities, natural or legal, who do not have the status of shareholder, provided that this issue is specifically authorized by the members of Government responsible for the areas of economy and finance, and provided that the financial products covered by these guarantees are identified.

This Decree-Law entered into force at midnight of March 27 of 2020.

To access the full text of Decree-Law no. 10-J/2020 of March 26, please click [here](#).

If you do not intend to receive these communications, you may oppose, at any time, to the use of your data for these purposes, by sending a written request to the following email address: geral@ctsu.pt. CTSU also ensures the right to access, update, rectify and delete, as per the applicable law, upon written request sent to the above mentioned email address. This communication contains only general information, therefore it is not an advice nor a provision of professional services by CTSU. Before any act or decision which may affect you, you should seek advice from a qualified professional. CTSU is not liable for any damages or losses suffered as a result of decision-making based on this communication.

CTSU - Sociedade de Advogados, SP, RL, SA is an independent law firm member of Deloitte Legal network. "Deloitte Legal" means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. For legal and regulatory reasons, not all member firms provide legal services.