



UNOFFICIAL TRANSLATION

Decree-Law No 80-A/2022

of 25 November 2022

Summary: This Decree-Law lays down measures to mitigate the effects of the increase in benchmark interest rates on loans for the purchase or construction of permanent owner-occupied dwellings.

In view of the current inflationary environment, the Government has adopted a set of extraordinary measures offering direct support to households in order to mitigate the effects of the rising prices of essential commodities, thus helping them to maintain their purchasing power. To this end, Decree-Law No 57-C/2022 of 6 September 2022 establishes extraordinary support for income and social benefit recipients and an exceptional supplement for pensioners.

The current inflationary environment has accelerated the outlook for monetary policy normalisation applied by the European Central Bank which, in turn, has led to the reversal of the low interest rate trend. As a result, an increase has been seen in benchmark interest rates that are used in particular to set the variable component of the interest rate applicable to loans for the purchase or construction of permanent owner-occupied dwellings.

In Portugal, the main typology of loans for house purchase consists of variable rate loans. The change in benchmark interest rates impacts both existing and new loans, insofar as both reflect the trend, whether positive or negative, of developments in benchmark interest rates.

The mechanisms for granting consumer credit, in particular housing loans, include, notably, assessing the creditworthiness of proposed borrowers, considering more onerous scenarios in terms of the debt-to-income ratio. Without prejudice to this prior assessment, the reality effectively experienced by households should be taken into account, especially in one of the heaviest burdens on the family budget, to prevent the materialisation of possible risks.

The legal framework for preventing and settling credit arrears, laid down in Decree-Law No 227/2012 of 25 October 2012, as amended, was substantially reinforced in 2021 by Decree-Law No 70-B/2021 of 6 August 2021, aiming at preventing the impact of credit moratoria expiration. Notwithstanding the reinforcement of the 2021 legal framework, the Government considers it necessary to enhance institutions' preventive mechanisms in the current situation of rising interest rates, in order to anticipate any risk or arrears that may arise from the increased debt-to-income ratio, requiring them to implement a specific routine to assess this effect.

Thus, where institutions detect a significant increase in the debt-to-income ratio or a significant debt-to-income ratio on borrowers in loans for the purchase or construction of permanent owner-occupied dwellings, as a result of the change in benchmark interest rates, institutions must apply, *mutatis mutandis*, the legal framework laid down in Decree-Law No 227/2012 of 25 October 2012, as amended, by assessing the effect on borrowers' financial capacity with a view to appraising the risk of default and, subject to verification of the remaining conditions laid down in that Decree-Law, by presenting solutions appropriate to the borrower's situation,



which may include, for example, an extension of the repayment period with the possibility of resuming the contractually agreed repayment period prior to the extension. For the purposes of applying the provisions of this Decree-Law, no fees may be charged for the renegotiation of loans, nor may the interest rate be increased.

In order to enable borrowers to obtain better terms and conditions while promoting competition in the banking sector, the payment of the early repayment fee for variable-rate housing loans is temporarily suspended, reducing the cost of deciding whether to transfer credit to another institution or to make partial repayments using accumulated savings.

Therefore:

Pursuant to Article 198(1)(a) of the Constitution, the Government hereby decrees as follows:

Article 1

Subject matter

This Decree-Law lays down measures to mitigate the effects of the increase in benchmark interest rates on loans for the purchase or construction of permanent owner-occupied dwellings.

Article 2

Scope

1 – This Decree-Law shall apply to loans for the purchase or construction of permanent owner-occupied dwellings covered by Decree-Law No 74-A/2017 of 23 June 2017, as amended, concluded with credit institutions, financial companies and branches of credit institutions and financial institutions operating in Portugal, hereinafter referred to as “institutions”, with an outstanding amount of €300,000 or less.

2 – Article 7 shall apply to any loan referred to in the foregoing paragraph, irrespective of the outstanding amount.

Article 3

Significant increase and significant debt-to-income ratio

1 – For the purposes of this Decree-Law, a significant increase in borrowers’ debt-to-income ratio shall be deemed to occur where:

a) it reaches 36%:

i) following an increase of 5 percentage points in the debt-to-income ratio in year-on-year terms or, for loans concluded in the last 12 months, against the date of their conclusion; or

ii) as a result of an equal or higher increase in the benchmark interest rate for the respective loan compared to the value considered for projecting the impact of the future increase in that benchmark interest rate, performed under Article 16 of Decree-Law No 74-A/2017 of 23 June 2017, as amended;

b) it is higher than 36% in year-on-year terms and an increase in the debt-to-income



ratio or in the benchmark interest rate of the loan is observed in accordance with (i) or (ii) of the foregoing subparagraph.

2 – For the purposes of this Decree-Law, a significant debt-to-income ratio shall be deemed to exist where borrowers' debt-to-income ratio is at least 50%.

3 – For the purposes of the provisions in the foregoing paragraphs:

a) “debt-to-income ratio” means the ratio between the monthly instalment obligation calculated with all the borrower's loans and monthly income;

b) “income” means:

i) the annual amount received by borrowers, net of taxes and social security contributions, according to the last tax income return provided to the institutions by the borrowers, divided by 12 months; or

ii) where the borrowers are employees, the average monthly income obtained in the last three months, in accordance with the information provided to the institutions by the borrowers; or

iii) where the borrowers are self-employed persons or workers with seasonal or irregular income, the monthly income determined in accordance with the information provided to the institutions by the borrowers.

Article 4

Monitoring of developments in the debt-to-income ratio

1 – Institutions shall verify whether there are indications of a significant increase in the debt-to-income ratio or a significant debt-to-income ratio at least 60 days in advance of resetting the interest rate.

2 – For the purposes of the foregoing paragraph, institutions may request any information or documents deemed necessary and appropriate for such verification from the borrower, in particular the tax income return and proof of the income referred to in paragraph 2 of the foregoing Article, and use the most updated information available on the Central Credit Register.

3 – The borrower shall provide the information and documents requested in accordance with the foregoing paragraph within 10 days.

Article 5

Institutions' procedures

1 – Institutions shall apply the provisions of Chapters I and II of Decree-Law No 227/2012 of 25 October 2012, as amended, *mutatis mutandis*, where:

a) they detect evidence of a significant increase in the debt-to-income ratio or of a significant debt-to-income ratio of the borrower; or

b) the borrower informs them of facts indicating a deterioration in their financial capacity.

2 – For the purposes of the foregoing paragraph, institutions shall:

a) apply the legal framework laid down in Article 11-A of Decree-Law No 227/2012 of 25 October 2012, as amended; and

b) offer solutions to the borrower, which are appropriate to mitigate the impact of the significant increase in the debt-to-income ratio or of the significant debt-to-income ratio, in accordance and compliance with the conditions laid down in Article 11-B of Decree-Law No 227/2012 of 25 October 2012, as amended.



Article 6

Extension of the repayment period

1 – For the purposes of the foregoing Article and without prejudice to the solutions listed in Article 11-B(2) of Decree-Law No 227/2012 of 25 October 2012, as amended, which may be proposed, institutions may also offer the borrower an extension of the repayment period of the loan with the option of resuming the contractually agreed repayment period prior to the extension provided for in this paragraph.

2 – Institutions shall present a proposal for an adjusted repayment schedule to the borrower, including information on the financial impact of such an extension.

3 – While the extension of the repayment period is in force, upon request to the institution concerned, the borrower may resume the period contractually agreed with that institution prior to the extension provided for in paragraph 1.

4 – In each of the first five years following application of paragraph 1, institutions shall communicate information on the right referred to in the foregoing paragraph to borrowers benefiting from an extended repayment period, by means of a durable medium, in particular by means of the bank statement.

5 – Where the borrower expressly intends to exercise the right referred to in paragraph 3, the institution concerned shall:

(a) present a proposal to the borrower for an adjusted repayment schedule, including information on the financial impact of its resumption;

(b) inform the borrower of the necessary steps for resumption.

6 – The borrower may request the contractual repayment period to be resumed in advance of the extension provided for in paragraph 1 and no later than 10 days after the information referred to in the foregoing paragraph has been provided.

7 – The institution concerned shall take the necessary steps to comply with the request no later than 10 days after receipt of the request referred to in the foregoing paragraph.

8 – Borrowers exercising the right under paragraph 3 shall not benefit again from a period extension with the resumption option provided for in paragraph 1.

Article 7

Temporary suspension of the fee for early repayment

Until 31 December 2023, the fee for early repayment provided for in Article 23(5)(a) of Decree-Law No 74-A/2017 of 23 June 2017, as amended, shall not be payable in respect of loans covered by this Decree-Law.

Article 8

Supervision and regulation

The Banco de Portugal shall supervise compliance with this Decree-Law and may regulate it, in particular as regards information obligations for borrowers and reporting obligations for supervisory purposes.



Article 9

Penalty framework

Failure by institutions to comply with the obligations laid down in this Decree-Law or in its regulatory provisions shall constitute an administrative offence punishable under Article 210 of the Legal Framework of Credit Institutions and Financial Companies, approved by Decree-Law No 298/92 of 31 December 1992, as amended, and the substantive and procedural rules laid down in that Legal Framework shall apply to the establishment of the corresponding liability for administrative offences.

Article 10

Charges and fees

Acts resulting from compliance with Article 5(2)(b) and Article 6 shall be exempt from the payment of fees, in particular in respect of land registration.

Article 11

Entry into force and duration

1 – This Decree-Law shall enter into force on the day following that of its publication and shall remain in force until 31 December 2023.

2 – Within 45 days of the entry into force of this Decree-Law, institutions shall apply the provisions of Article 5 to the borrowers who, on the date of entry into force of this Decree-Law, are covered by the conditions laid down in Article 3.

Seen and approved in the Council of Ministers on 03 November 2022. – António Luís Santos da Costa – Fernando Medina Maciel Almeida Correia.

Enacted on 24 November 2022.

Let it be published.

The President of the Republic, MARCELO REBELO DE SOUSA. Countersigned on 25 November 2022.

The Prime Minister, António Luís Santos da Costa.