



Subject: Best practices applicable to the selling of retail banking products and services through digital channels

The Banco de Portugal has been monitoring the credit institutions, financial companies, payment institutions and electronic money institutions (hereinafter “institutions”) when selling retail banking products and services through digital channels.

The Banco de Portugal is particularly attentive to the way in which institutions ensure compliance with the applicable regulatory framework, notably when offering credit products to consumers through digital channels. As highlighted in the 2018 and 2019 Banking Conduct Supervision Reports and in the Banking Conduct Supervision Activities Report for the 1st half of 2019, institutions have been recommended to adopt measures to ensure compliance with information and assistance duties and guarantee the security of processes when selling consumer credit.

The European Banking Authority (“EBA”) has also been analysing the selling of retail banking products and services through digital channels, and recently suggested to the national competent authorities that they should incorporate a set of guidelines aimed at increasing disclosure in digital channels at national level. The recommendations aim to ensure that the selling of products and services through these channels does not jeopardise compliance with the requirements, particularly information requirements, to which institutions must adhere under the applicable law and regulations. These guidelines were shared with the European Commission and served as input to the discussion that the European legislator is developing in the context of the revision of Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (Opinion of the European Banking Authority on disclosure to consumers of banking services through digital means under Directive 2002/65/EC).

Taking into account its supervisory experience in the selling of consumer credit through digital channels and the guidelines issued by the EBA, the Banco de Portugal has decided to recommend set of good practices applicable to the selling of retail banking products and services (i.e. bank deposits, credit products, payment services and e-money) through digital channels (online or mobile).

Sent to:

Credit institutions; Financial Companies; Payment Institutions and Electronic Money Institutions.

Thus, in the exercise of the powers conferred upon it by Article 17 of its Statute, approved by Law No 5/98 of 31 January 1998, the Banco de Portugal hereby recommends institutions to adopt the following good practices:

I. General recommendations

1. Without prejudice to the fulfilment of the information obligations laid down in the applicable rules, institutions which sell banking products or services through digital channels should ensure that the information provided in these channels about those products or services is appropriate in terms of content, form of presentation and prominence, especially taking into account the marketing platform and the devices that bank customers may use to purchase these products or services.

2. Institutions should use simple language, with short and direct sentences, and particularly adopt keywords, lists of bundled services, if applicable, a glossary of terms and references, explanatory notes (tooltips or equivalent) or frequently asked questions to facilitate bank customers' understanding of the information disclosed.

3. Institutions should evaluate the use of graphic elements such as font size, colour, icons and images in all information media, including on the screens of the marketing platform and in advertising, ensuring that those elements are not likely to affect the readability, understanding and prominence of information related to the banking product or service in question. Therefore, institutions should, in particular, ensure that:

- (i) the font size used enables an appropriate reading of the information provided;
- (ii) bank customers can change the font size set by default;
- (iii) information on the main features of the banking product or service and on other relevant elements, such as fees and expenses that may be applicable, is not presented in a smaller font size than that adopted for the remaining information;
- (iv) the colours or images used do not make it difficult for bank customers to read (e.g. information with a colour that can be confused with the screen background) and do not draw their attention away from information about the main features of the banking product or service or about other elements deemed relevant, such as the fees and expenses that may be applicable;
- (v) the use of colours or images on mandatory information media does not restrict reading when printed in black and white.

4. When hyperlinks are used, institutions should ensure, in particular, that:

- (i) information about the banking product or service is not fragmented;
- (ii) the hyperlinks are easily identifiable by bank customers, are coherently presented (by ensuring that the same style, positioning and prominence are used) and are in accordance with the nature and relevance of the information they convey;
- (iii) the hyperlinks refer bank customers directly to the relevant information on the click-through page;
- (iv) the hyperlinks are periodically tested to ensure their functioning and to evaluate their effectiveness, notably by monitoring the number of clicks and the behaviour of the bank customers.

5. In cases when a brand is used for the selling of a banking product or service, institutions should ensure that any reference to that brand on all information media, including on the screens of the marketing platform and in advertising, is accompanied by the identification, with a similar prominence, of the institution responsible for the selling of the product or service.

II. Specific recommendations

A. General pre-contractual stage

6. When providing pre-contractual information, institutions should ensure that charges on the banking product or service have the same prominence as its benefits, notably with regard to the font size and colour used.

7. Institutions should prominently present information on the basic features of the banking product or service and on other elements deemed relevant, such as fees and expenses that may be applicable, on the main screen or webpage of the marketing platform, using larger characters, information boxes, pop-ups, simulations, overviews or other similar means.

8. Institutions should describe, on the main screen or webpage of the marketing platform, the process stages and all that is necessary to buy the product or service, so that bank customers, right from the start, are aware of (i) the various stages of the selling process, (ii) the possible need to use other channels, devices or means of communication during the selling process, as well as (iii) any necessary documents to purchase the banking product or service.

9. Institutions should ensure that general information about the banking product or service is easily accessible and can be downloaded by bank customers (e-g. the Standardised Information Sheet, if applicable)

10. Institutions should provide a dedicated, easily accessible and permanent space, on the marketing platform, website or institutional application, to inform bank customers about the means at their disposal to exercise their right to complain and to access to alternative dispute

resolution procedures, identifying the alternative dispute resolution bodies they have joined and providing direct links to their websites.

11. When more than one institution is involved in the selling of a retail banking product or service, bank customers should be duly informed about the scope of intervention of each institution, so that they can identify the one that is specifically responsible for the relevant behaviour, in order to file a complaint or resort to alternative dispute resolution procedures.

B. Customised pre-contractual stage

12. During the selling process, institutions should refrain from using terms that indicate an approval of the contractual offer before it has occurred, such as "pre-approval", "pre-acceptance" or "pre-evaluation".

13. Institutions should not use pre-ticked boxes or graphic elements, such as font size, colour, icons and images, which lead the customer to choose a certain option (e.g. within the scope of bundled sales of optional products and services or the financing of the initial charges associated with the contract).

14. Institutions should present and frame the information related to the banking product or service they are selling separately from information about additional or ancillary products or services (e.g. an insurance contract).

15. Institutions should ensure that the selling process only proceeds to the next stage after the bank customers have read through every page of the mandatory information documents (including the Standardised Information Sheet, the Depositor Information Template and the draft contract), used a mandatory scroll down feature and confirmed that they have read them at the end of the documents. Institutions should use visual or textual techniques to encourage bank customers to read the documents until the end, notably by adjusting the way of viewing, for example, by using jump-to-section options.

16. Institutions should assist bank customers with regard to the relevant banking product or service (namely its features, risks and fees and expenses that may be applicable) and the selling process (including the process stages and necessary documentation), by making available, among others, a hotline or live chat, chatbot, frequently asked questions, infographics, explanatory videos or other interactive tools that are appropriate to the complexity of the banking product or service, the information that is being provided and the selling process.

17. In situations involving the selling of a credit product and where the creditworthiness assessment of bank customers relies exclusively on automated decision-making processes, notably based on artificial intelligence models, institutions should inform the bank customer of that fact, in order to allow for the exercise of rights provided for in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.

18. In situations involving the selling of a credit product and where the application for credit has been rejected on the basis of information contained in credit liabilities databases or the public list of enforcement proceedings, institutions should employ the same channel that was used to sell the credit product or another means of electronic communication (e.g. email) to inform the bank customer of this fact as provided by law.

C. Stage of conclusion of the contract

19. Institutions should adopt robust methods to confirm the willingness of bank customers to purchase the banking product or service, such as, for example, qualified electronic signature, Digital Mobile Key ("*Chave Móvel Digital*") or at least two elements, different from each other, under the categories of knowledge, possession and inherence.

20. Institutions should inform bank customers in advance about the available methods to confirm their willingness to purchase the banking product or service.

D. Contract duration stage

21. Institutions should provide a dedicated and easily accessible space so that bank customers that have purchased the banking product or service through digital channels can exercise their right of withdrawal, as permitted by law, on the marketing platform of the banking product or service, website or application associated with the management of the contractual relationship underlying the relevant contract. The exercise of the right of withdrawal should be as convenient as the form of conclusion of the contract.

22. Institutions should provide a dedicated, easily accessible and permanent space so that bank customers that have purchased a credit product through digital channels can exercise their right of early repayment, as permitted by law, on the marketing platform of the product, website or the application associated with the management of the contractual relationship underlying the relevant contract. The exercise of the right of early repayment, in whole or in part, should be as convenient as the form of conclusion of the contract.

23. After prior consent of the bank customer, institutions should use instant communication channels, such as email, short message service (SMS) or push notifications, when they consider it appropriate to alert the bank customer to the availability of important communications in the bank customer's private area after the selling of a banking product or service (e.g. any amendment to the contractual conditions regarding fees and expenses that may be applicable).