

INFORMATIVE NOTE



FINANCIAL SUPERVISION

RECOMMENDATIONS ON BUSINESS CONTINUITY MANAGEMENT

The National Council of Financial Supervisors, made up of the Bank of Portugal, the Portuguese Insurance Institute and the Portuguese Securities Commission recently approved a recommendations proposal on business continuity management directed at banks, insurance companies and other financial institutions.

This proposal, which will be subject to public consultation until 18 June 2010, aims to promote the development and improvement of the business continuity capacity of the institutions that operate within the Portuguese financial system. Its objective is to strengthen response capacity in cases of operational disturbances.

Currently, business continuity management is regulated in the three areas of the financial sector through the provision of business continuity plans, although these are characterised by distinct levels of regulatory handling. In particular, while the Bank of Portugal and the Portuguese Insurance Institute chose to define non-binding guidelines for the characteristics of business continuity plans, the choice for financial intermediaries was to apply binding provisions.

This and other differences have led to the understanding that, because of interconnection – and in many cases, interdependence, or even coincidence of identity – between the institutions which the three authorities supervise,

and since business continuity management is clearly a transversal theme, the definition of a concerted approach in which rules and principles are established that apply to all areas of the financial system is justified.

It is in this context that the recommendations proposal arises. The proposal is now open to public consultation and essentially deals with the following fundamental issues: (i) the establishment of a business continuity policy; (ii) the definition of a hierarchy of responsibility for business continuity management; and (iii) the definition of a business continuity management procedure.

In particular, the National Council of Financial Supervisors wishes to hear from the various operators in the market on some of the specific issues, especially the following:

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“Portuguese Law Firm of the Year”
Chambers Europe Excellence 2009, IFLR Awards 2006 & Who’s Who legal Awards 2006, 2008, 2009

“Corporate Law Firm of the Year - Southern Europe”
ACQ Finance Magazine, 2009

“Best Portuguese Law Firm for Client Service”
Clients Choice Award - International Law Office, 2008, 2010

“Best Portuguese Tax Firm of the Year”
International Tax Review - Tax Awards 2006, 2008

Mind Leaders Awards™
Human Resources Suppliers 2007

Finally, it should be noted that it is the understanding of the supervisory authorities that the recommendations that come to be approved should be seen as a set of generic best practices which should be implemented and developed by the institutions and so adopted by them from a perspective of “comply or explain”.

- Making the management bodies responsible for the continued operation of the institution and for its rapid recovery in the event of disturbances to its activity;
- The adoption of an internal policy that clearly defines the responsibilities of the institution’s internal departments in the event of a disaster;
- The definition of internal procedures that guarantee the existence of alternative infrastructures including fiscal, IT and communication infrastructures;
- The definition of a recovery strategy for business functions that establishes the objectives and the priorities for recovery of critical business functions and which takes into consideration any existing dependent functions, and provides for ways to mitigate them;

- The creation of a communication policy that ensures the flow of information necessary for the recovery of processes and for business continuity;
- To ensure that tests, simulations, training and other procedures for preparation of the activation of the business continuity plan are carried out.

Finally, it should be noted that it is the understanding of the supervisory authorities that the recommendations that come to be approved should be seen as a set of generic best practices which should be implemented and developed by the institutions and so adopted by them from a perspective of “comply or explain”. This principle and the undeniable relevance and importance that the business continuity plans have in the current management of such institutions demands, rather than simply justifies, a careful analysis of what is now being proposed.

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