

Executive Order No 854/87

of 5 November

Considering the provisions of Article 7 of Decree-Law No 182/87 of 21 April, which approved the Mutual agricultural credit guarantee fund, and taking into account the proposal of the Fund's Management Committee:

The Government of the Portuguese Republic through the Finance Minister approves the regulation in annex, which will govern the above-mentioned Mutual agricultural credit guarantee fund.

Ministry of Finance

Signed on 22 October 1987

The Finance Minister, Miguel José Ribeiro Cadilhe

Statutes of the Mutual agricultural credit guarantee fund

CHAPTER I

Nature and purpose

Article 1 – 1 – The Mutual agricultural credit guarantee fund, hereinafter referred to as “the Fund”, is a public law legal person with administrative and financial autonomy.

2 – The Fund has its head office in Oporto, on the premises of Banco de Portugal, which will ensure the technical and administrative services required for its operation.

Article 2 – The aim of the Fund is primarily to protect the mutual agricultural credit scheme, and therefore to carry out and promote the actions it may deem necessary to ensure the solvency of mutual agricultural credit banks which are members thereof, hereinafter called agricultural banks.

CHAPTER II

Management committee

Article 3 – 1 – The Fund is managed by a Management Committee appointed by a decision of the Finance Minister and is comprised of three members, one appointed by

Banco de Portugal, another member by the Finance Minister, and a third member by the Central mutual agricultural credit bank

2 – The chairperson of the Management Committee shall be a member of the Board of Directors of Banco de Portugal.

3 – In his/her absence or impediment, the chairperson of the Management Committee shall be replaced by the member of the committee he/she appoints or, if no appointment is made, by the senior member, or, under equal circumstances, by the oldest member.

Article 4 – 1 – The members of the Management Committee shall remain in office for renewable terms of three years.

2 – After the end of their mandate, the members of the Management Committee shall remain in office until the swearing-in of the replacing member.

3 – In case of decease, exoneration or long impediment of any member of the Management Committee, a replacement shall be appointed, who will carry out his/her functions up to the end of the mandate or until the impediment has ceased.

4 – The members of the Management Committee may receive gratuities to be fixed by a decision of the Finance Minister.

5 – The gratuities, as well as any other running costs of the Fund and of the respective Management Committee, when not covered by the provisions of Article 1(2), shall be supported by the Fund.

Article 5 – 1 – The Management Committee shall hold regular meetings and extraordinary meetings.

2 – Ordinary meetings are summoned by the chairperson and are held monthly, or at shorter notice if so determined by the Management Committee.

3 – Extraordinary meeting are summoned by the chairperson, on his/her own initiative, or at the request of any other member of the Management Committee.

Article 6 – Decisions are taken by the Management Committee by majority vote of the present members. The chairperson or his/her substitute shall have the casting vote.

2 – The Management Committee's decisions shall only be valid if two of its members are present.

3 – The minutes of the meetings of the Management Committee shall be signed by all members that are present.

4 – The chairperson of the Management Committee may suspend the execution of any decision taken by the Fund that he/she may deem inconvenient, and promptly report such fact to the Finance Minister.

5 – The suspension mentioned in the foregoing number shall be waived if the Minister does not confirm it within fifteen days.

Article 7 – The Fund shall be legally committed by the signatures of two members of the Management Committee.

CHAPTER III

Competence

Article 8 – The Management Committee shall be responsible for taking the actions deemed appropriate to the operation of the Fund and to meeting the respective objective, namely:

- a) To establish an information system enabling it to evaluate the real economic-financial situation of every agricultural bank;
- b) To obtain from agricultural banks and from other entities authorised to receive them, the documents and data deemed necessary for meeting the objective of the Fund; the agents of the Fund shall be bound by the obligation of professional secrecy.

Article 9 – The Management Committee may adopt the measures deemed necessary for the support laid down in Article 9 of Decree-Law No 182/87. In particular, it may:

- a) Notify any agricultural bank to adopt the measures deemed necessary for the reestablishment of the respective asset position, whenever the Management Committee considers that the regular operation or the solvency of such agricultural bank may be at stake;
- b) Grant subsidies or loans and provide guarantees to and acquire credits or any other asset values from the agricultural banks in question, under conditions to be established on a case-by-case basis;
- c) Require from the agricultural banks the express acceptance of management and other rules that, in the opinion of the Management Committee, are necessary to correct situations determining the need for support;
- d) Monitor the activities of the agricultural banks through a delegation of the Fund empowered to prevent the implementation of any deliberation taken by them, whenever

such deliberation is seriously inadequate to their purposes, or when their economic-financial situation is or threatens to become particularly serious.

e) Call for a general meeting of any agricultural bank, under the same circumstances mentioned in the foregoing paragraph, and intervene therein for information purposes and for submitting appropriate measures.

Article 10 – 1 – The Management Committee may preventively suspend the possibility of recourse to support mentioned in the foregoing Article, as regards the agricultural banks that incur serious breach of their obligations towards the Fund.

2 – The Management Committee may also suspend support in progress to the agricultural banks that do not adopt or cease to adopt or to comply with the measures or conditions applicable to them.

Article 11 – 1 – The Management Committee may exclude from the Fund the agricultural banks that persistently maintain the situation mentioned in the foregoing Article.

2 – After the date of notification of the exclusion, all debts and respective agricultural charges towards the Fund shall fall due.

CHAPTER IV

Auditing

Article 12 – 1 – The Board of Auditors of Banco de Portugal shall monitor the Fund's activities, and shall be responsible, in particular, for:

- a) Monitoring the operation of the Fund and compliance with the applicable laws and regulations;
- b) Calling for regular or occasional meetings with the Management Committee;
- c) Calling the attention of the Management Committee to any subject it deems worth considering, and ruling on any subject submitted by that entity;
- d) Informing the Management Committee of the Fund, the Board of Directors of Banco de Portugal and the management of the Central mutual agricultural credit bank of any irregularities detected;
- e) Issuing opinions on the report and accounts of the Fund's activities;

2 – The Board of Auditors of Banco de Portugal may be assisted by specialists specifically appointed or hired for the purpose, or by companies specialising in auditing activities.

CHAPTER V

Members

Article 13 – 1 – Legally established and registered mutual agricultural credit banks may be members of the system created by Decree-Law No 182/87, provided that they have requested their membership to the Management Committee of the Fund.

2 – Membership shall depend on the presentation by the interested agricultural bank of all the items deemed necessary, as required by the Management Committee.

3 – The agricultural banks that do not submit the request mentioned in No 1 above within 60 days as of the date of their special registration with Banco de Portugal shall be covered by the provisions of Article 3 (2) of Decree-Law No 182/87 of 21 April.

4 – Agricultural banks that have been excluded under Article 11 or that have required their exoneration under Article 16 (1), both of this Executive Order, shall fall within the scope of the foregoing number, as of the dates of the respective notifications.

5 – Agricultural banks that require their membership after the deadline established in No 3 above shall pay the Fund, under conditions to be established by the latter, an amount corresponding either to the contributions they would have paid if they had required membership within the above deadline, or to the last two years, should it be shorter.

6 – The Management Committee of the Fund may establish a deadline, up to a maximum of two years as of the date of membership, during which agricultural banks accepted under the conditions laid down in the foregoing number cannot receive the financial support envisaged in Article 9 (b) above.

Article 14 – Only the agricultural banks expressly accepted as members of the system mentioned in the foregoing Article may publicly disclose such fact.

Article 15 – Agricultural banks accepted as members of the Fund shall pay an annual contribution in two instalments, the first one in April and the second one in October of the corresponding year.

Article 16 – Any agricultural bank may cease to participate in the Fund. It shall communicate the fact to the Management Committee and settle all debts and charges towards the Fund.

Article 17 – Under the conditions and situations envisaged in Articles 11 and 16 above, if any extraordinary reorganisation measures are deemed to be taken with respect to any agricultural bank, the Management Committee of the Fund shall communicate the underlying facts to the Ministry of Finance and to Banco de Portugal.

Article 18 – 1 – In case any agricultural bank ceases to be member of the Fund, it shall immediately put an end to the public disclosure mentioned in Article 14 above, as well as to any equivalent information available to the public, including forms, stationary, etc.

2 – In the event mentioned in the foregoing number, agricultural banks shall cease to have right to any repayment. They shall continue to pay their annual contributions until settlement of the respective share in any outstanding advance payments made to the Fund under the provisions of Article 6 (4) of Decree-Law No 182/87 of 21 April.

Article 19 – The readmission of the agricultural banks that ceased to be members of the Fund depends of the approval of the Management Committee and can only occur after payment to the Fund of the contributions corresponding either to the period of time elapsed since their exclusion from the system or to the last two years, should it be shorter.

2 – The readmitted agricultural banks mentioned in the foregoing number shall be subject to the conditions established in Article 13 (6) of this Executive order.

Article 20 – The Management Committee of the Fund shall send to the Ministry of Finance by 31 January each year and for the purpose of its publication in the Official Gazette, series II, a list of agricultural banks that are members of the Fund, and shall inform Banco de Portugal, within 10 days, of any changes to the mentioned list.

CHAPTER VI

Transitional provisions

Article 21 – The provisions of Article 13 (3), (5) and (6) are applicable to the agricultural banks in operation as at the date of entry into force of this Executive Order, which do not apply for membership within 45 days, under the terms of the same Article 13.