EXECUTIVE SUMMARY

PREVENTION OF BANKING RESOLUTION IN PORTUGAL

The 2007 international financial crisis revealed serious deficiencies in existing mechanisms to prevent and deal with financial institutions' bankruptcy situations, with consequences detrimental to the stability of the financial system and the sustainability of public finances in the European Union (EU) countries. Especially to those, like Portugal, whose more limited public resources led to the need to ask for external financial support and made it unaffordable for the state to endure the rescue of banks "too big to fail" without sacrificing other essential objectives.

In 2012, the EU decided to move towards the Banking Union in response to the financial crisis. In order to remedy the inability then revealed to prevent and deal with bankruptcy situations of financial institutions, the Single Resolution Mechanism (SRM) is responsible since 2016 for ensuring the resolution of insolvent institutions in an orderly manner and with minimal costs for taxpayers and the real economy.

To this end, the SRM counts at European level with the Single Resolution Board (SRB) and, at national level, with the National Resolution Authority (*Autoridade Nacional de Resolução* or ANR). In Portugal, these functions were assigned to the Portuguese Central Bank (*Banco de Portugal* or BdP) and must be carried out in an operationally independent manner from other functions of the Central Bank, namely banking supervision.

The Court of Auditors of Portugal (*Tribunal de Contas de Portugal* or TCP) decided to contribute to an audit of the preparatory banking resolution activity in the EU under the responsibility of the ANRs together with the Supreme Audit Institutions (SAIs) of seven other countries: Germany, Austria, Spain, Estonia, Finland, the Netherlands and Ireland. The audit aims to verify whether National Resolution Authorities (ANR) have resolution plans in place and are prepared to implement them contributing to assess the implementation of the SRM in those eight countries and to identify its main risks.

TCP's contribution to this European audit is based on the conduct of the autonomous audit here reported, which contributes not only to the overall results intended but also to prevent and reduce bank resolution risks to the stability of the financial system and to the sustainability of national public finances. The main findings of the TCP audit are as follows:

1. An ANR governance model is lacking to ensure the legal requirement of independence in the performance of its functions (planning and implementation of resolution measures) and to avoid potential conflicts of interest with supervisory or other functions assigned to the BdP. In addition, other limitations to this independence remain, including weaknesses in human resources, information systems, control activity and autonomous accounts, due to the fact that the ANR is, in practice, one of the Departments of the BdP (see 3.1).

2. On the 15 of June of 2020, four out of the twenty seven initial resolution plans that should have been prepared by the ANR are still missing. Weaknesses have also been identified in approved plans that need to be addressed through the permanent and updated review of their content, in particular by linking them to the minimum requirement of own funds and eligible liabilities (see 3.2).

3. In short, ANR is not yet empowered (prepared and equipped with the adequate means) to exercise its banking resolution powers with operational independence. For this qualification, it is important to prevent and reduce the significant risks reported and likely to be aggravated by the adverse impact of the Covid-19 pandemic (see 3.3).

The audit findings (see 4) led to the formulation of a set of recommendations (see 5) addressed to the responsible entities with a view to improving procedures and implementing good practices to address the reported shortcomings.