

CHAPTER III

DISCIPLINARY POWER

Article 19

Disciplinary jurisdiction

The credit institutions belonging to the APB, the members of their corporate bodies or other persons in charge of their management shall be subject to the disciplinary jurisdiction of the Association with regard to the obligations set out in this code. The disciplinary powers shall be exercised by its Disciplinary Committee.

Cessation of APB member status shall not terminate the disciplinary powers of the Disciplinary Committee, provided that it occurs after the disciplinary proceedings have commenced.

Article 20

Disciplinary infractions

Deliberate violation by act or omission of the deontological standards set out in this code constitutes a disciplinary infraction, which shall be punishable pursuant to the following articles, without prejudice to liability for a criminal, civil or administrative offence to which the violation may also lead.

Disciplinary liability is independent from civil or criminal liability and liability for administrative offences.

If, however, there is both a disciplinary infraction together with an administrative offence, both to be handled by the Portuguese Stock Exchange Commission (CMVM) or Banco de Portugal, or with a criminal offence, the Disciplinary Committee may, if it deems that this is compatible with the appropriate, timely defence of the interests in question, suspend the disciplinary proceedings until a decision is issued, even if not *res judicata*, in the administrative offence or criminal case.

Article 22

Disciplinary sanctions

Violation of the rules set out in this code shall be punished by the following disciplinary sanctions:

- a) Warning;

b) Reprimand.

The warning shall be simple, if it does not entail annotation in a disciplinary record, or registered if it does so entail.

Article 23

Criteria for imposing disciplinary sanctions

The disciplinary sanctions set out in the preceding article shall be in proportion to the severity of the infraction and the degree of culpability of the offender. All other relevant circumstances shall also be taken into account.

A reprimand shall be especially applicable if the acts in a disciplinary infraction seriously violate the rules of professional conduct set out in this code.

In the event of repeated disciplinary infractions subject to a reprimand or of disrespect for a reprimand, the reprimand may be published with an extract of the decision posted in the stock exchange price bulletins.

In the situations set out in the preceding paragraph, the Disciplinary Committee may, for offenders who are members of the APB, propose their expulsion, in which case the rules on expulsion of members laid down in the Association's statutes shall apply.

The decision to publish referred to in paragraph 3 above or the proposal to expel a member set out in paragraph 4 requires the votes in favour of at least two-thirds of all the members of the APB Disciplinary Committee.

Article 24

Disciplinary liability of credit institutions' employees

Deliberate violation of the duties arising from the rules set out in this code by act or omission on the part of credit institutions' employees constitutes a disciplinary infraction punishable pursuant to the general disciplinary regulations applying to the credit institution's employees.

The Disciplinary Committee shall impose the sanctions set out in Article 22 within the scope of its disciplinary jurisdiction, and the provisions of the Disciplinary Committee's Regulations shall be observed in the investigation, preparation and hearing of disciplinary cases.

Disciplinary infractions by credit institutions' employees shall be subject to the general disciplinary regulations applying to the credit institution's employees.

Article 26

Expiry, interruption and suspension of expiry

A disciplinary proceeding shall expire one year after the infraction. The statute of limitation on a disciplinary proceeding shall be interrupted:

- a) By a hearing of the offender;
- b) By the receipt of a notice of guilt by the offender;
- c) By any probative procedures.

If there is more than one infraction, the disciplinary procedure may be suspended pursuant to Article 21(2).

Disciplinary proceedings for infractions by credit institutions' employees expire after the period established in the applicable general disciplinary regulations.

Article 27

Principles to be observed in disciplinary proceedings

The following shall be properly guaranteed in disciplinary proceedings:

- a) The confidential nature of the case;
- b) The defence of the accused both before and after indictment;
- c) The essential interests of investors and the securities market.

In infractions subject to a simple warning, there shall be no disciplinary proceeding and it shall be replaced, after the offender has been heard, by a written communication of the sanction to the offender and an indication of the act or acts that determined it and the rules violated.

In the event of a reprimand with publication, the CMVM shall be sent an extract of the decision in question.

Article 28

Investigation and preparation of disciplinary proceedings

Credit institutions, members of their corporate bodies, their representatives, employees and other persons who provide services to them on a permanent or occasional basis are obliged to provide all information on the intermediation activity in question requested from them by the Disciplinary Committee during the investigation in a disciplinary proceeding.