Regulation no. 3/2000, de 27 de Novembro

Financial Intermediaries Registrations

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Registration of Financial Intermediaries for the pursuit of securities intermediation activities.

Under the provision of articles 12, 13 and 14 of Law no. 53/V/98 of 11 May, which sets forth the conditions for the access to and pursuit of securities intermediation activities, the Banco de Cabo Verde, briefly referred to as Banco, approved the following regulation:

Article 1
Object

The purpose of this regulation is to complement the provisions in Law no. 53/V/98 with regard to the registration of financial intermediaries.

Article 2
Registration

1. For the purposes of registration with the Bank's Special Register, financial intermediaries must deliver the documents referred to in number 2 of article 13 of Law no. 53/V/98 together with the application, unless for some reason said documents are already held by the Bank.

2. The application must list each of the securities intermediation activities indicated in article 2 of Law no. 53/V/98 which the applicant wishes to pursue in effect.

3. The registration is considered to have been successful if the CMVM does not refuse it within a period of 30 days counting from the date on which it receives the complete application or on which it receives complementary information subsequently requested, shall that be the case.

Article 3
Requirements that depend on the registration

The granting and maintenance of the registration shall depend on the confirmation by the applicant that it:

a) has the necessary authorisations for the pursuit of securities intermediation activities which require registration;

b) has all of the human, technical, material and organisational means necessary for the pursuit of each of the activities it wishes to pursue so as to ensure high standards of efficiency and security in the services provided.
Article 4

Technical, material and organisational means

1. For the purposes of sub-paragraph b) of article 3, financial intermediaries must indicate the following, in particular, among the technical and material means:

a) the characteristics of the computer systems used in the pursuit of each activity, which shall at least ensure the functions defined in Annex B to this regulation;

b) the premises where the activities shall be pursued;

c) a proposal of the internal regulations;

2. In the internal regulations, the financial intermediary must indicate the organisational structure and internal control systems put in place in relation to the pursuit of each of the intermediation activities, setting out the procedures and the rules adopted, taking into consideration:

a) the prevention of the occurrence of conflicts of interests between clients and the financial intermediary and between clients and the members of the management companies or co-workers of the financial intermediary, ensuring the separation between proprietary trading and third-party trading;

b) the prevention of the unauthorised use of information and the violation of the rules of professional secrecy;

c) the suitable separation of duties into execution, registration and control.

Article 5

Human resources

1. The human resources assigned to each intermediation activity must be suited to the performance of the activity in accordance with the general objective set forth in article 6 of the Securities Market Code and in sub-paragraph b) of article 3 of this regulation.

2. The suitability referred to in the previous number includes the aptitude and professional competence of the persons assigned to each activity.

Article 6

Individual registration

1. The persons covered by the registration for each type of intermediation activity are included in Annex A of this regulation.

2. Financial intermediaries must provide the following information for each person covered by the registration:
a) a questionnaire and declaration in accordance with the form approved by the Banco de Cabo Verde;

b) credentiation for the pursuit of the duties subject to registration, when required.

3. The persons who carry out the duties referred to in sub-paragraph d) of points I, II, VI and VII of Annex A, shall they not belong to the company’s board of directors, must meet the necessary conditions in order to represent the company in its relations with the Banco de Cabo Verde, ensuring the provision of reliable information requested within the scope of the supervision.

Article 7

Suitability and competence

1. Suitability is assessed exclusively in terms of the performance of the duties subject to registration based on the information provided in the questionnaire referred to in sub-paragraph a) of no. 2 of article 6.

2. Professional competence is assessed exclusively for the exercise of the duties to be performed and must be confirmed by the financial intermediary, subject to prior registration with the Banco de Cabo Verde.

3. Persons who provide false or inaccurate information or who omit relevant facts are not considered suitable.

Article 8

Multiple functions

The persons registered in the Terms of Annex A to perform the duties referred to in sub-paragraphs a) and b) of points II), VI) and VII) may not be registered for proprietary trading in the same intermediary or in any other.

Article 9

Registration changes

1. Any changes to the information based on which the registration was granted must be communicated to the Banco within a period of 15 days after they occur, with a view to the respective endorsement.

2. Endorsements to the registration are based on the information in no. 1 of article 2, under the same terms required for the initial registration, depending on the information to be registered.

3. Any changes to the registration that imply the pursuit of new activities are subject to the provision in the previous article.

4. Any changes to the persons registered must observe the criteria defined in
article 6. Failure to do so may lead to the endorsement being rejected and, pursuant to sub-paragraph a) of article 13, may cause the registration to be cancelled.

**Article 10**

**Suspension of the registration**

The *Banco de Cabo Verde* may suspend, as a precaution, for a maximum period of 60 days, the registration of the pursuit of any of the activities carried out by the financial intermediary, or the exercise of duties by persons subject to registration, whenever the financial intermediary performs any actions or any situations arise that could disturb the regular functioning of the market or place in jeopardy the legitimate interests of investors.

**Article 11**

**Cancellation of the registration**

1. The *Banco de Cabo Verde* may cancel the registration of financial intermediaries in relation to each or all of the securities intermediation activities, whenever:

   a) There is supervention of any circumstances that may hinder the granting of the registration, shall they not have been remedied in the time period stipulated by the Banco;

   b) The rules governing the financial intermediation activity or the market are violated, which may disturb the regular functioning of the market or place in jeopardy the legitimate interest of investors.

**Article 12**

**Activity start-up**

Once financial intermediaries have been granted the registration, they must inform the Banco of the activity start-up date.

**Article 13**

**Entry into force**

This regulation enters into force on the date it is published in the *Official Bulletin*.

ANNEX A

Persons covered by the Registration

I. Reception and transmission of orders on behalf of third parties

1. The persons who carry out the following duties in intermediaries that pursue the activity of executing and transmitting of orders on behalf of third parties are subject to registration with the Banco:

   a) Supervision and control;

   b) Reception and registration of orders;

   c) Checking and registration of operations carried out;

   d) Relations with the Banco de Cabo Verde.

2. Supervision and control duties are considered to be those that involve responsibility for the activities carried out in sub-paragraphs b) and c) of the previous number, including compliance with the legal, regulatory and ethical standards.

3. The duty referred to in sub-paragraph b) includes the responsibility for the centralised service of the reception of orders, when existent, and respective transmission to the intermediary that shall execute it.

4. The duties referred to in sub-paragraph c) normally fall under the back-office and are tangible signs of the control of operations and involve registering the operations carried out, checking the physical and financial settlement of the operations, as well as the submission of the respective notifications to clients.

5. The duties referred to in sub-paragraphs a), b) and c) of number one and others equated to these must be carried out by different persons.

II. Reception and execution of orders on behalf of third parties

1. The persons who carry out the following duties in intermediaries that pursue the activity of executing orders on behalf of third parties are subject to registration with the Banco de Cabo Verde:

   a) Supervision and control;

   b) Execution of orders;

   c) Rechecking, registration and distribution of orders executed;

   d) Relations with the Banco.

2. Supervision and control duties are considered to be those that involve responsibility for the activities carried out in sub-paragraphs b) and c) of the previous number, including checking the conformity of executed orders with the client's instructions and compliance with the legal, regulatory and ethical standards.
3. The duty referred to in sub-paragraph b) includes the responsibility for the introduction of offers in the trading system, in conformity with the client’s instructions.

4. The duties referred to in sub-paragraph c) normally fall under the back-office and are tangible signs of the control of the execution of stock exchange orders received and involve the allocation of orders executed and the registration of the operations carried out.

5. The duties referred to in sub-paragraphs a), b) and c) of number one and others equated to these must be carried out by different persons.

III. Proprietary trading of securities

The person responsible for the management of the financial intermediary’s own portfolio is subject to registration with the Banco de Cabo Verde.

IV. Placement, organisation, launch and execution of public offers of subscription or transaction

The person responsible for the supervision and control of the information submitted for the conduct of proceedings subject by law to registration or assessment by the Banco de Cabo Verde is subject to registration with the Banco de Cabo Verde.

V. Deposit of certified securities, registration of book-entry securities and related services

The person responsible for the control of the deposit and registration of securities is subject to registration with the Banco de Cabo Verde.

VI. Management of securities portfolios belonging to third parties

1. The persons who carry out the following duties in intermediaries that pursue the activity of portfolio management are subject to registration with the Banco de Cabo Verde:

   a) Supervision and control;
   b) Investment decisions;
   c) Checking, registration an accounting of the operations carried out
   d) Relations with the Banco de Cabo Verde.

2. The duties referred to in sub-paragraph a) include the responsibility for the supervision and control of the activities carried out by the persons who perform the duties referred to in sub-paragraphs b) and c) of the previous number, with regard to compliance with the portfolio management contracts and with the legal, regulatory and ethical standards.

3. Investment decision duties are all those concerning the effective management of portfolios, which includes the definition and execution of the investment plan.
4. The duties referred to in sub-paragraph c) normally fall under the back-office and are tangible signs of the execution control of the investment decisions, when carried out autonomously.

5. The duties referred to in sub-paragraphs a), b) and c) of number one and others equated to these must be carried out by different persons.

VII. Management of investment funds

1. The persons who carry out the following duties in the investment fund management companies are subject to registration with the Banco de Cabo Verde:
   a) Supervision and control;
   b) Investment decisions;
   c) Checking, registration and accounting of the operations carried out;
   d) Relations with the Banco de Cabo Verde.

2. The duties referred to in sub-paragraph a) include the responsibility for the supervision and control of the activities carried out by the persons who perform the duties referred to in sub-paragraphs b) and c) of the previous number, with regard to compliance with the investment fund management regulations and with the legal, regulatory and ethical standards.

3. Investment decision duties are all those concerning the effective management of investment funds, namely the buying and reselling of securities, the carrying out of other investment fund applications and the use of the management techniques and instruments permitted to investment funds.

4. The duties referred to in sub-paragraph c) normally fall under the back-office and are tangible signs of the execution control of the investment decisions, when carried out autonomously.

5. The duties referred to in sub-paragraphs a), b) and c) of number one must be carried out by different persons.

VIII. Carrying out of the duties of custodian of securities integrated in investment fund portfolios

The person responsible for the control of the deposit and registration of securities integrated in investment fund portfolios is subject to registration with the Banco de Cabo Verde.

ANNEX B

Computer resources

1. In the provision of the reception and transmission of orders on behalf of third parties, the computer resources available must ensure the following duties:
a) The registration of orders when these are not received electronically;

b) The transmission of orders, when applicable, to the central service of the recipient of the data.

2. In the provision of the reception and execution of orders on behalf of third parties, besides the requirements resulting from the intervention of the market in which the orders were executed, the computer resources available must ensure the following duties:

a) The registration of operations;

b) The issuance of records of the operations carried out, including buy and sell notes.

3. In the provision of the placement, organisation, launch and execution of public offers for subscription or transaction, the computer resources available to financial intermediaries must make it possible to assess at all times during the placement or implementation of the offer, the number of offers received by the financial intermediaries involved that accepted by investors.

4. In the provision of the deposit of certified securities and the registration of book-entry securities, the computer resources available must ensure the following duties:

a) the registrations and other annotations to be made pursuant to the provision in article 15 and following of the Securities Market Code, making possible the reconstruction in chronological order of the registrations per security and per client;

b) The issuance of launch notifications;

c) The issuance of account statements, including the issuance of account statements with only the movements between certain dates, as well as the original and final positions.

5. In the provision of the management of securities portfolios belonging to third parties, the computer resources available must ensure the following duties:

a) The control of the composition of the portfolios, including the breakdown per client of the bank accounts opened by the management company on behalf its clients;

b) The provision of information to the clients and supervision authorities, in accordance with the regulatory and contractual requirements in force.

6. In the provision of investment fund management services, the computer resources available must ensure the following duties:

a) The integration between the registration of operations in the fund's portfolio
and the respective accounting entries;

b) The valuation of the assets making up the fund’s portfolio, using external sources of information and the consequent appraisal of the value of the unit;

c) The provision of information to the market and to the supervision authorities in compliance with the regulatory standards in force;

d) The production of financial records supporting the activity of the fund and of the management company.

The Governor of the Banco de Cabo Verde, Olavo Garcia Correia.