SECURITIES MARKET CODE OF CAPE VERDE
Despite all the care taken in preparing this publication of legislation, which aims primarily to promote efficiency of the securities market, the AGMVM may not be held responsible for the content thereof. Consultation of the Securities Market Code does not, however, dispense with the need to consult the Official Bulletin where the diploma was published.
SECURITIES MARKET CODE OF CAPE VERDE

Legislative-Decree No. 1/2012, of 27 January 2012

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The Auditor-General of Securities Market (AGMVM) shall, in accordance with Article 32 of the Securities Market Code (MVM Code), approved by Legislative Decree No. 1/2012 of 27 January 2012, publish “annually the updated text of the legal and regulatory standards relating to matters regulated by this code and by complementary legislation.” With the aim of following the increasing internationalisation and integration of securities markets, the AGMVM translated into English and published the Securities Market Code and the main additional legislation, as well as some of the most important regulations adopted by the AGMVM. These texts shall also be constantly updated and are available on the BCV’s website.

It should be noted that fourteen years after the entry into force of the first code regulating the Securities Market, the approval of a new code proved a landmark in the financial regulation of Cape Verde. The dynamism of the securities market requires frequent amendments to the regulations governing its operations, be they of a legal or regulatory nature. The timely intervention of the various actors involved is therefore essential for a proper understanding of the mechanisms governing the investment in securities and for individual agents to fulfil their duties and exercise their rights more consciously.

The formatting of the new regulatory framework of the securities market of Cape Verde proves indispensable to make it modern and credible, particularly given the forthcoming accession of the AGMVM to the International Organization of Securities Commissions (IOSCO). The new Securities Market Code also sought, in particular, to modernise the discipline of public offers and to create rules in relation to new trends
in the markets and listed companies, with particular emphasis on the rules relating to the advertising of the prospectus. The provision of full information on securities and issuers, along with the respective rules of conduct, also promoted the protection of investors. Furthermore, such information provides an effective means of increasing confidence in securities, thereby contributing to the smooth functioning and development of securities markets.

Furthermore, rules were defined on information and transparency, particularly as regards the prevention and combating of market abuse, and a set of measures were approved covering the deepening of the disclosure requirements of financial intermediaries, the regulatory requirement of disclosure of information of listed companies, the possibility of granting the disclosure of information, and the worsening of the framework of the criminal offenses of insider trading and market manipulation. The concepts of security and public company were also redefined according to the criteria in force at international level.

Market transparency is also based on adequate disclosure of the legal rules pertaining to it. For this reason, it is hoped that this publication of the Code will be very useful to all users of and investors in the securities market.

Consultation of the MVM Code does not, however, dispense with the need to consult the Official Bulletin where the diploma was published.

General Audit of the Securities Market
Bank of Cape Verde, July 2012

Maria da Encarnação Alves da Silva Rocha
Auditor-General of the Securities Market
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of 27 January

At a time when the models regulating the financial system worldwide are being reformed, thanks to their good practices and internationally established reputation, Cape Verde may have favourable conditions to assert itself as a regional international financial centre.

Therefore it is essential to reform the regulatory framework governing the securities market of Cape Verde in order to make it modern and credible, particularly in view of the future membership of the General Audit of the Securities Market (AGMVM) with the International Organization of Securities Commissions (IOSCO).

The reform of the Cape Verdean securities market aims to reduce costs and overcome the bureaucratic barriers which, in the current context of liberalisation of capital movements, have hindered the attraction of new securities issues in Cape Verde, thereby compromising the dynamics of the national securities market.

The newly approved reform seeks to reflect in the Cape Verdean national law solutions that keep pace with international best practices so as to ensure the competitiveness of the regulatory model, avoiding regulatory arbitrage risks, in which the regulated entities search for countries that offer regulation mechanisms more suited to their own interests.

The regulation of the financial system was based on the monist model, better suited to the regulation of the financial system in small or emerging economies, since it allows for the maximisation of economies of scale, reducing compliance costs; better circulation of information, solving any breakdowns in communication; ensuring a single counter at a time when financial conglomerates proliferate and facilitating the operation of the regulatory authority, namely from an administrative and financial perspective.

However, in view of a necessary specialisation in the regulation of the securities market – particularly considering that the market in Cape Verde is still very recent and therefore still needs to assert itself – it was decided that the separation of the securities market within a monist model allows efficiency gains.
The proposed solution ensures the stability of the current model of financial regulation in Cape Verde, improving aspects that enable it to identify with the best and most advanced international practices.

The stronger guarantees of stability and autonomy of the AGMVM enshrined in this reform implied defining new rules, particularly as regards the appointment of the Auditor-General and members of the Governing Board of the AGMVM, the duration of the mandate of the members, the clarification of the principle of irremovability of the members of the AGMVM’s Governing Board and of its system of incompatibilities and impediments and compensation statute.

In addition, areas in need of reform in the securities sector were identified. These include public offers, deepening the rules governing insider dealing, the strengthening of sanctions, the establishment of public companies and the consideration of some aspects of the tax scheme relevant to the revitalisation of the capital market.

The discipline of public offers was modernised and new rules were created in relation to the new trends in markets and listed companies, with particular emphasis on the rules on the advertising of the prospectus.

The reform thus provides that, in advertising, two announcements shall be published: a preliminary announcement which binds the offeror launching the bid in such a way that the publication of the preliminary announcement does not technically equate to launching the bid, and the announcement of the launch, which is the disclosure document incorporating the contractual statement.

In the case of public offers, it became necessary to undertake a major overhaul of the system. The terminology of public offers was thus clarified and broken down into public offers for distribution (including offers for subscription or sale) and takeover bids (including public takeover offers).

The public offer process became systematic, with the creation of a body of legal provisions on the matter.

Furthermore, new rules were defined on disclosure and transparency, particularly as regards the prevention and combating of market abuse. A set of measures was approved that include the development of information...
obligations of financial intermediaries, regulation on the obligation to disclose inside information, the possibility of deferring the disclosure of information, the worsening of the penal framework of the crimes of insider trading and market manipulation, the provision of accessory penalties, the assignment of investigative powers to the AGMVM and lastly, the definition of rules on the seizure and confiscation of the proceeds of the crime.

The concept of security was also redefined, as well as the concept of public company. Special rules were set up for this type of companies in the Securities Market Code, which resulted from theeminently legal-securities connection of these companies.

Finally, the legal impediment that prevented newly-formed commercial companies (with less than two years) from issuing bonds was changed.

The General Audit of the Securities Market, the Cape Verde Stock Exchange and the Bank of Cape Verde were consulted.

Thus,

Under the legislative authorisation granted by Law No. 7/VIII/2011 of 28 November; and

In the use of the power conferred by sub-paragraph b) of sub-article 2 of Article 204 of the Constitution of the Republic, the Government decrees as follows:

**Article 1**

Approval

The Securities Market Code in annex, which forms an integral part of this law, is approved.

**Article 2**

Legislation and supplementary provisions

1. With a view to their implementation, the provisions of this Code shall be supplemented by Government legislation, regulations of the General Audit of the Securities Market (AGMVM) and circulars of the Stock Exchange.

2. The Government legislation, regulations and circulars mentioned in the
preceding sub-article, as well as any others that may be issued and relate to matters covered by this Code, shall also be published in the official bulletin and in the AGMVM’s information disclosure system.

**Article 3**

**Registration of independent auditors**

Only independent auditors registered with their professional body may certify accounts or any financial information referred to in this code and supplementary legislation.

**Article 4**

**Referral to repealed provisions**

The referrals in legislative or regulatory texts to the standards of the repealed Code in accordance with the following Article shall be deemed to refer to the corresponding provisions of the Securities Market Code approved by this instrument.

**Article 5**

**Repeal**

The Securities Market Code approved by Law No. 52/V/98 of 11 May shall be hereby repealed.

**Article 6**

**Amendment to Article 391 of the Commercial Companies Code**

Article 391 of the Commercial Companies Code approved by Legislative Decree No. 3/99 of 29 March is amended as follows:

“**Article 391**

**(Bond issuance)**

1. […]

2. Only companies whose contract has been definitively registered for over 1 (one) year can issue bonds, unless they are the result of a merger or demerger of companies of which at least one has been registered for over 1 (one) year.
3. The period referred to in the preceding sub-article may be reduced upon prior authorisation from the General Audit of the Securities Market, as expressly prescribed by it, bearing in mind that the competence of the holders of shares or the characteristics of the commercial company guarantee the issuance of bonds to be authorised.

4. The provision in paragraphs 2 and 3 does not apply to State-dominated companies or when the issuance of bonds is guaranteed by the State or related entity.

5. […] Previous paragraph 4

6. […] Previous paragraph 5

7. […] Previous paragraph 6
   a.
   b.
   c.

8. […] Previous paragraph 7

Article 7

Entry into force

This law shall come into force 60 days after its publication in the Official Bulletin.

Seen and approved in the Council of Ministers of 1 December 2011

José Maria Pereira Neves - Cristina Isabel Lopes da Silva Monteiro Duarte - José Carlos Lopes Correia

Promulgated on 12 January 2012.

For publication.

The President of the Republic, JORGE CARLOS DE ALMEIDA FONSECA.
SECURITIES MARKET CODE

TITLE I
GENERAL PROVISIONS

CHAPTER I
Object, scope and general definitions

Article 1

Object

This Code establishes the key principles and provisions that govern the organisation, functioning and operations of the markets in securities and financial instruments and the activities carried out in them by all market agents.

Article 2

Scope

1. The provisions of this Code shall be applicable to all securities and other financial instruments issued, traded or sold domestically.

2. Exceptions to the provisions of the preceding sub-article are:

   a) securities of a monetary nature, unless otherwise provided for by law;

   b) other securities in relation to which the applicability of this Code is expressly excluded, in whole or in part, by the special law governing them.

Article 3

Definitions

1. For the purposes of this Code:

   a) securities are documents representing standard legal situations that can be traded in the market, and others qualified as such by law;

      i. shares;

      ii. bonds;

      iii. equity instruments;

      iv. units in collective investment schemes;
v. covered warrants;

vi. rights detached from the securities described in i. to iv., provided that the same applies to the entire issue or series or is described in the issue conditions; and

vii. other documents representing standard legal situations, provided they may be traded on the market.

b) financial instruments are securities and derivative financial instruments;

c) securities market are all organised markets or those controlled by the competent authorities where these securities are traded;

d) primary market is the securities market through which the issuers carry out the issuance and initial distribution of these securities among investors;

e) secondary market is all organised markets to buy and sell these securities after they have been distributed to investors through the primary market;

f) financial intermediaries or organised intermediaries are individuals and entities, natural and legal persons, public or private, legally qualified to carry out, on a professional basis, financial intermediation in markets in securities and financial instruments;

g) stock exchange operators are all financial intermediaries legally authorised to conduct stock exchange operations;

h) competent authorities are individuals and public or private entities responsible for the organisation and functioning of markets in securities and financial instruments or for the control of activities developed therein as well as for compliance with the legal or regulatory provisions regarding them;

i) issuing bodies are individuals and public or private entities that issue securities;

j) investors are individuals and public or private entities that, either through themselves or through other individuals or entities, temporarily or permanently invest the funds that are held by them in securities and financial instruments;

k) public companies are companies that have part or all of their capital dispersed among the public.
2. The professional activities covered by the definition in sub-paragraph f) of sub-article 1 include not only the operations that financial intermediaries carry out for or on behalf of third parties, but also those that they are legally or statutorily authorised or obliged to carry out on their own account within the scope of their duties in the securities market.

CHAPTER II

General Audit of the Securities Market

Section 1

Nature and duties

Article 4

Nature

The General Audit of the Securities Market, briefly referred to as AGMVM, operates under the Governor of the Bank of Cape Verde and enjoys functional and administrative autonomy.

Article 5

Duties

1. The duties of the AGMVM shall be as follows:

a) the supervision of the markets in securities and financial instruments, of public offers relating to securities, of the clearing and settlement of securities, of centralised securities systems, and of all entities operating in the securities market;

b) the regulation of the markets in securities and financial instruments of public offers relating to securities, of the activities carried out by the entities subject to the supervision of the AGMVM and of other matters provided for in this Code and in supplementary legislation;

c) the promotion of the development of market in securities and financial instruments and of financial intermediation activities;

d) other duties assigned by law.

2. Within the framework of its powers, the AGMVM shall promote exchange and coordination with the other services of the Bank of Cape Verde, with authorities from other countries who carry out the supervision and regulation
of securities and of the financial system in general and with international organisations of which it forms part.

3. The exchange and coordination with the other services of the Bank of Cape Verde shall include the establishment of procedures for exchanging information, assessing the nature and impact of potential crises and, when necessary, the coordination of measures to be taken.

4. The exchange and coordination referred to in the preceding sub-article shall apply both in situations of the normal functioning of financial systems and markets and in crisis situations with a systemic impact that affects financial institutions or groups, including financial conglomerates or infrastructure of the financial system, including the payment systems.

Article 6

Judicial control

1. The administrative acts of the AGMVM shall be subject to administrative jurisdiction, in accordance with the respective legislation.

2. The AGMVM shall have standing to challenge the legality of the government acts concerning it.

Section II

Bodies

Article 7

Bodies

The Board and the Advisory Council are bodies of the AGMVM.

Sub-section I

Governing Board

Article 8

Composition, appointment and duration of mandate

1. The Governing Board is composed of an Auditor General and 2 (two) members on an exclusive basis, all of whom are appointed by Resolution of the Council of Ministers from among persons of recognised integrity, independence and competence on a proposal from the Finance Minister, after consultation with the Governor of the Bank of Cape Verde.
2. The mandate of the Auditor General and other members of the AGMVM lasts for 4 (four) years, renewable once.

**Article 9**

**Powers of the Government Board**

1. The Governing Board shall have the following powers:

   a) to define the general policy of the AGMVM;

   b) to prepare the budget and annual activity plan;

   c) to prepare the annual report on the situation of the securities markets and disseminate them, submitting it to the Governor of the Bank of Cape Verde and the Finance Minister by 30 June of each year, which should include the report on the activities undertaken by the AGMVM.

   d) to organise the services and manage the human resources of the AGMVM;

   e) to approve the regulations and other legislative acts whose jurisdiction is assigned by law to the AGMVM, including the setting of fees;

   f) to approve general recommendations addressed to the entities subject to the supervision of the AGMVM and general advice on relevant issues put to it;

   g) to determine the opening of preliminary investigations relating to crimes against the market and its closure, as well as any referral to the Public Prosecutor’s office;

   h) to carry out other supervision acts defined by Law;

   i) to decide on any other matters assigned by Law.

2. The Governing Board of the AGMVM may delegate powers to the Auditor General or any of its members.

**Article 10**

**Operation**

1. The Governing Board shall meet once a week and extraordinarily whenever convened by the Auditor General, on his own initiative or at the request of any other members.
2. The minutes of the meetings shall be approved and signed by all of the members present.

3. The Auditor General shall have the casting vote in the meetings over which he presides.

4. The Auditor General may suspend any decision of the Governing Board he considers contrary to law, regulations or public interest, in which case the subject matter of the decision may only be approved again after a new decision-making procedure, including the hearing of the entities that the Auditor General deems appropriate.

**Article 11**

**Powers of the Auditor General**

1. The Auditor General shall be responsible for, in particular:

   a) convening and presiding over meetings, guiding their work and ensuring compliance with their decisions;

   b) representing the AGMVM in and out of court;

   c) maintaining relations with other services of the BCV and other public bodies;

   d) requesting advice from the Advisory Council;

   e) performing other duties prescribed by law and as may be delegated by the Governing Board.

2. The Auditor shall be replaced in his absence successively by the oldest member or on an equal footing.

3. The provision of the preceding paragraph shall be applicable in the case of vacancy of office.

**Article 12**

**Incompatibilities**

1. The Auditor General and other members of the AGMVM may not, during their mandate:

   a) exercise any other public or private duty, albeit unpaid, apart from teaching duties or research in an officially recognised educational institution;
b) conduct, directly or through intermediaries, securities operations, except in the case of operations involving national or foreign public funds or retirement savings funds.

2. The Auditor General and members of the AGMVM that on the date of their appointment are holders of shares shall dispose of them prior to taking office or declare in writing their existence to the Finance Minister and may only dispose of them after taking office with the permission of said minister.

3. Within 2 (two) years of the termination of their mandate, the Auditor General and members of the AGMVM may not establish any bond or enter into professional relationship, paid or unpaid, with entities that, during this period, were covered by the AGMVM’s scope of supervision.

4. Within two (2) years of the termination of their mandates, the former Auditors General and members of the AGMVM shall be entitled to an allowance equivalent to two thirds of their salary; this allowance shall cease from the moment they are hired or appointed to any paid public or private function or service.

Article 13
Secrecy

1. The members of the AGMVM, employees or any other person that renders any services directly or indirectly, on a permanent or temporary basis, to the AGMVM shall be subject to professional secrecy in relation to the facts or data to which they gain access in the exercise of their duties, which they may not reveal or use to their advantage or that of any third party, directly or through an intermediary.

2. The duty of secrecy shall be maintained after termination of the duties or the provision of services by the people bound by it.

3. The facts or data subject to secrecy may only be disclosed with permission of the person concerned, transmitted to the AGMVM or otherwise as prescribed by law.

4. The duty of secrecy shall not cover facts or data whose disclosure by the AGMVM is imposed or permitted by law.
Article 14
Remuneration and benefits
The Auditor General and the members of the AGMVM shall receive a remuneration fixed by ordinance of the Finance Minister, on the Governor’s proposal, and enjoy the benefits of social workers assigned to the Bank of Cape Verde.

Article 15
Termination of duties
1. The Auditor General and the members of the AGMVM shall terminate their duties:
   a) when their respective term of office has come to an end;
   b) as a result of permanent disability or supervening incompatibility of the person holding the office;
   c) waiver;
   d) by dismissal decided by resolution of the Council of Ministers in cases of serious misconduct proved as committed by the person holding the office in the performance of their duties or in the fulfilment of any obligation inherent to the office.

2. The infringement of sub-article 1 of Article 12 is considered serious misconduct.

3. The term of office of each of the members of the Governing Board shall be independent of the term of office of the other members.

Sub-section II
Advisory Council
Article 16
Composition and functioning
1. The following shall be permanent members of the Council:
   a) the Governor of the Bank of Cape Verde, who shall preside;
   b) a representative of the Finance Minister;
c) a director of the Bank of Cape Verde;
d) the Auditor General of the Securities Market;
e) the Chairman of the Cape Verde Stock Exchange;
f) a representative of credit institutions; and
g) a representative of brokerage houses.

2. The Council shall meet at least once a year, with sessions being scheduled 15 (fifteen) days in advance and convened by the Chairman on his initiative or at the request of any of the other permanent members.

3. The AGMVM shall provide technical support to the Council.

4. Council members and all other individuals who collaborate with it shall be subject to the duty of secrecy.

**Article 17**

**Powers**

The Council shall have the following powers:

a) to promote the coordination of market participants in the securities market;
b) to promote the development of the securities market in Cape Verde;
c) to formulate proposals for regulation;
d) to issue opinions;
e) to promote the development or adoption of policies of coordinated action with foreign entities and international organisations;
f) to carry out any actions that, by consensus, are deemed appropriate by its members for the purposes stated in the preceding paragraphs.

**Section III**

**Supervision and surveillance**

**Article 18**

**Principles of supervision**

1. The supervision carried out by the AGMVM shall be based on the following principles:
a) protection of investors;

b) efficient and regular functioning of markets in securities and financial instruments;

c) control of information;

d) prevention of systemic risk;

e) prevention and prosecution of actions contrary to law or regulations;

f) independence before any public or private entities.

2. Individuals or entities engaged in transnational activities shall be subject to the supervision of the AGMVM whenever such activities have any relevant connection to markets, operations or securities subject to the law of Cape Verde.

3. The entities subject to the supervision of the AGMVM shall provide it with all the assistance requested.

Article 19

Entities subject to the supervision of the General Audit of the Securities Market

Within the scope of the activities related to financial instruments, the following entities shall be subject to the supervision of the AGMVM, without prejudice to the powers assigned to other authorities:

a) stock exchanges, managing bodies of multilateral trading systems, settlement systems, clearing houses or central counterparty and centralised securities systems;

b) financial intermediaries and investment advisers;

c) issuers of securities;

d) qualified investors and holders of qualifying holdings;

e) guarantee funds and investor compensation schemes and their managing bodies;

f) auditors and credit rating companies registered with the AGMVM;

g) other individuals who carry out, as their principal or secondary activity, activities related to the issuance, distribution, negotiation, registration or
deposit of financial instruments or activities related to the organisation and functioning of markets in financial instruments in general.

**Article 20**

**Supervision procedures**

Within the scope of its supervision procedures, the AGMVM may adopt the following procedures, in addition to others prescribed by law:

- **a)** monitoring the activity of the entities subject to their supervision and the functioning of markets in financial instruments;
- **b)** monitoring compliance with the law and regulations;
- **c)** approving acts and issue permits prescribed by law;
- **d)** drawing up the records prescribed by law;
- **e)** preparing and instituting proceedings and punishing offences that fall within its competence in relation to any individuals;
- **f)** giving orders and drawing up concrete recommendations;
- **g)** disseminating information;
- **h)** publishing studies.

**Article 21**

**Exercising supervision**

1. In exercising its supervision, the AGMVM shall take the steps necessary to ensure the effectiveness of the principles referred to in Article 18, safeguarding as far as possible the autonomy of the entities subject to its supervision.

2. In exercising its supervision, the AGMVM shall have the following prerogatives:

- **a)** requesting any information, examining book, records and documents, in which case the entities supervised may not invoke secrecy;
- **b)** requesting information on the shareholding structure of legal persons that participate in the securities markets;
- **c)** accessing bank and intermediation records;
d) requesting information on transactions on the stock exchange from financial intermediaries and any other natural or legal persons, regardless of whether or not they are under the supervision of the AGMVM;

e) hearing any persons, summoning them when necessary;

f) determining that the individuals responsible for the locations where legal proceedings are instituted or other measures are taken place at the disposal of the AGMVM the facilities needed by their agents to carry out said tasks under appropriate, dignified and efficient conditions;

g) requesting police collaboration that proves necessary for the exercise of their duties, namely in cases of resistance to this exercise;

h) replacing the supervised entities in complying with disclosure requirements;

i) disclosing publicly the fact that an issuer is failing to observe its duties.

3. In the situations described in paragraph 1 and in sub-paragraphs a) to f) of the preceding paragraph, the natural or legal persons in question shall be subject to a duty not to disclose to clients or third parties the contents or occurrence of the action.

4. In appeals of decisions taken by the AGMVM in the exercise of its supervisory powers, it shall be presumed, until proven otherwise, that the suspension of the effects determines serious injury to the public interest.

Article 22

Ongoing supervision

The AGMVM shall continuously monitor the activity of entities subject to its supervision, even if there is no suspicion of irregularity.

Article 23

Prudential supervision

1. The following entities shall be subject to prudential supervision by the AGMVM:

c) stock exchanges, multilateral trading systems, settlement systems, the clearing house and central counterparty and centralised securities systems;

d) collective investment institutions;
e) managing bodies of guarantee funds and investor compensation schemes.

2. Prudential supervision shall be guided by the following principles:

a) the maintenance of the solvency and liquidity of the institutions and prevention of own risk;

b) the prevention of systemic risks;

c) the control of the suitability of the members of the managing bodies, of the individuals who effectively run the activity and of the qualified shareholders.

3. For the purposes of the preceding paragraph, the entities referred to in sub-article 1 shall be required to the provide the AGMVM with the information it deems necessary to verify, in particular, its degree of liquidity and solvency, the risks that they incur, including the level of exposure to different types of financial instruments, the management practices and control of the risks to which they are or may become subject and the methodologies adopted in the assessment of their assets, particularly those that are not traded in markets with high liquidity and transparency.

4. The AGMVM shall implement the provision of the preceding paragraphs by regulation.

Article 24

Inspection

1. In the exercise of its powers of supervision, the AGMVM:

a) shall carry out the inspections it deems necessary of the entities subject to its supervision;

b) shall conduct surveys to investigate offenses of any kind committed within the securities market or that affect its normal operation;

c) Takes the steps necessary to comply with the principles mentioned in Article 18.

2. The AGMVM shall inform the competent entities of the offenses of which it becomes aware and whose institution and sanctioning are outside the scope of its jurisdiction.
Article 25
Supervision of advertising

1. The AGMVM shall be responsible for monitoring the application of the legislation on advertising relating to matters covered in this law, establishing and instituting cases of administrative offenses and applying the corresponding sanctions.

2. In relation to illegal advertising material, the AGMVM may order:
   a) the changes necessary to halt the illegality;
   b) the suspension of the advertising campaign;
   c) the immediate publication of appropriate rectification by the person responsible.

3. In case of infringement of the order referred to in sub-paragraph c) above, the AGMVM may, without prejudice to penalties, substitute the offender in the act.

Section IV
Records and disclosure of information

Article 26
Registration

1. Registrations made by the AGMVM shall seek to review the legality and compliance with regulations of the facts and information subject to registration and organisation of the supervision.

2. The registrations made by the AGMVM shall be public unless when provided otherwise by law.

3. The documents that served as the basis of the registrations shall be public unless they contain personal information not included in the registration or the registration was made under administrative offence or investigation proceedings still under way or which are subject to secrecy for any other reason.

4. The AGMVM shall lay down, by regulation, the terms of public access to the registrations and documents referred to in the preceding paragraphs.
5. The AGMVM shall keep a record of the main and ancillary sanctions applied in administrative offense proceedings, which shall not be accessible to the public.

6. The records made by the AGMVM may be integrated and processes in software applications in accordance with and within the limits of the law on personal data protection.

Article 27
Disclosure of information

The AGMVM shall organise a computer system for disclosing information available to the public that may include, among other things, information contained in their records, decisions of public interest and other information communicated to it or approved by it.

Article 28
Publication costs

The statement of the Governing Board of the AGMVM attesting to costs with publications which, according to law, may be promoted by the AGMVM at the expense of entities subject to its supervision, shall be enforceable.

Section V
Regulation

Article 29
Regulations of the General Audit of the Securities Market

1. The AGMVM shall draw up the regulations under this Code.

2. The regulations of the AGMVM shall observe the principles of legality, necessity, clarity and publicity.

3. The regulations of the AGMVM shall be published in the Official Bulletin of Cape Verde and on the AGMVM’s website, entering into force on the date referred to therein or five days after its publication.

4. The regulations of the AGMVM that concern matters relating to a particular regulated market or multilateral trading system or to the financial instruments traded in it shall also be disclosed in the bulletin of that market or system.
5. The regulations of the AGMVM simply aimed at regulating internal procedures of one or more classes of entities shall be called instructions, shall not be published pursuant to the preceding paragraphs, shall be notified to the respective recipients and shall enter into force three days after notification or on the date referred therein.

Article 30

Bulletin of the General Audit of the Securities Market

1. The AGMVM shall issue a regular bulletin where it publishes, namely:

   a) its regulations and instructions;
   
   b) general recommendations and opinions;
   
   c) authorisation decisions;
   
   d) registration decisions, if the registration is public.

2. The bulletin of the AGMVM shall be published electronically.

Article 31

General recommendations and opinions

1. The AGMVM may issue general recommendations addressed to the entities under its supervision.

2. The AGMVM may formulate and publish general opinions on relevant issues that are put to it in writing by the entities under its supervision.

Article 32

Consolidated publication of standards

The AGMVM shall publish annually the updated text of the legal and regulatory standards regarding matters governed by this Code and by supplementary legislation.

Article 33

Self-regulation

1. Within the limits of the law and regulations, the managing bodies of regulated markets, multilateral trading systems, settlement systems, central counterparty or clearing house and centralised securities systems may autonomously regulate the activities managed by them.
2. The rules established under the preceding paragraph that are not subject to registration, as well as those contained in ethical codes approved by managing bodies and professional associations of financial intermediaries, shall be reported to the AGMVM.

Section VI
Cooperation
Article 34
Principles

The cooperation developed by the AGMVM shall obey the principles of reciprocity, respect for professional secrecy and restricted use of information for supervisory purposes.

Article 35
Cooperation with other national authorities

1. The AGMVM shall cooperate with other national authorities with powers of supervision and regulation.

2. The cooperation referred to in the preceding sub-article shall be regular in nature and may lead to:

   a) the drafting and approval of regulations when the law grants joint responsibility;

   b) mutual consultations;

   c) the exchange of information, even when subject to professional secrecy;

   d) acts of joint inspection;

   e) the establishment of common agreements and procedures.

Article 36
Cooperation with corresponding foreign authorities

1. In the exercise of its duties, the AGMVM shall cooperate with corresponding or counterpart institutions of other countries.

2. The AGMVM may conclude bilateral or multilateral cooperation agreements with the institutions referred to in the preceding paragraph, in particular with a view to:
a) gathering evidence relating to offenses against the market in financial instruments and other offenses whose investigation falls under the jurisdiction of the AGMVM;

b) exchanging information necessary to carry out their supervision or regulation duties, including records and reports relating to transactions on the stock exchange and testimonials from people, either voluntarily or when summoned for that purpose by the supervision authority;

c) consulting on problems arising from their duties;

d) staff training and exchange of experiences within their respective assignments.

3. The agreements referred to in the preceding paragraph may include subordinate participation of representatives from counterpart institutions in a foreign country on matters of the jurisdiction of the AGMVM, when there is suspicion of violation of law in that country.

4. The cooperation referred to in this Article shall be developed in accordance with the law and international conventions that bind the Government of Cape Verde.

5. The provisions of this Article shall apply mutatis mutandis to relations arising from the participation of the AGMVM in international organisations.

Article 37

Assistance to corresponding foreign authorities

1. The AGMVM shall share information and provide assistance to corresponding or counterpart institutions in other countries on investigations and offenses of any nature committed within the scope of the securities market or that affect its normal functioning and any other offenses under the jurisdiction of the AGMVM, regardless of whether the offense occurred in Cape Verde or not.

2. The assistance provided by the AGMVM to corresponding or counterpart institutions in other countries and the sharing of information referred to in the preceding paragraph shall be carried out even if the facts being investigated by the corresponding or counterpart institution in the other country or to which the request for information relates do not constitute an infringement or violation of laws or regulations of the Government of Cape Verde.
Article 38

Processing of information

The information received by the AGMVM under the preceding Articles may only be used:

a) to examine the conditions of access to the activity of financial intermediaries;

b) to supervise the activities of financial intermediaries and to supervise the markets in financial instruments;

c) for the conduct of proceedings and sanctions;

d) in appeals brought against decisions of the Finance Minister, the AGMVM or the Bank of Cape Verde, taken in accordance with the provisions applicable to the entities subject to their supervision;

e) to comply with the duties of collaborating with other entities or to develop cooperation actions.

CHAPTER III

Information

Article 39

Quality of the information

1. The information relating to financial instruments, organised forms of trading, financial intermediation, settlement and clearing of transactions, public offers of securities and issuers shall be complete, accurate, timely, clear, objective and licit.

2. The provision in the preceding paragraph shall apply regardless of the means of disclosure and even if the information is introduced in the form of an advice, recommendation, advertising message or credit rating report.

3. The requirement of the completeness of the information shall be assessed according to the medium used and in the case of advertising, it may be replaced by references to documents available to the recipients of said information.
Article 40
Audited information

1. A report shall be drawn up by an independent auditor with annual financial information contained in accounting documentation or in prospectuses that:

   a) must be submitted to the AGMVM;

   b) must be published as part of a request for admission to trading in regulated markets; or

   c) concern collective investment institutions.

2. Should the documents referred to above include forecasts on the development of the business or of the economic and financial situation of the entity to which they relate, the auditor’s report shall expressly refer to their assumptions, criteria and consistency.

3. Should the interim information or quarterly or semi-annual financial information have been subject to audit or limited review, the audit report or review shall be included; should they not have been, such fact shall be stated.

Article 41
Auditors’ duty to communicate

1. Auditors that provide a service to a financial intermediary or company with which they have a control or group relationship or that directly or indirectly hold at least 20% (twenty percent) of the voting rights or share capital, shall immediately report to the AGMVM the facts relating to said financial intermediary or company to which they have access in the exercise of their duties, when such facts are likely to:

   a) constitute a crime or administrative offence that establishes the authorisation conditions or that specifically regulates financial intermediation activities;

   b) affect the continued pursuit of the financial intermediary’s activity; or

   c) justify the refusal to certify the accounts or the expression of reservations.

2. The duty to communicate imposed by this Article shall prevail over any restrictions on the disclosure of information legally or contractually provided
for and its compliance with good faith does not involve any liability of the respective subjects.

Article 42

Liability of the auditors

The following entities shall be jointly and severally liable for the damage caused to issuers or third parties for any shortcomings in the report or opinion drawn up by an auditor:

a) certified accountants and other individuals who signed the report or opinion;

b) audit and accounting firms and other audit firms, when the audited documents were signed by one of the shareholders.

Article 43

Information standards

1. Having heard the opinion of the Certified Auditors and Accountants Association, the AGMVM may, by regulation, define rules, harmonised with international standards, on the content, organisation and presentation of economic, financial and statistical information used in accounting documents, as well as the respective auditing rules.

2. The AGMVM shall establish rules to ensure the compatibility of the information to be provided under the preceding paragraph by financial intermediaries also subject to the supervision carried out in the banking and insurance sectors.

CHAPTER IV

Financial intermediaries

Article 44

Financial intermediaries

Financial intermediaries in financial instruments shall be legal persons whose business, habitually and professionally pursued, is to provide third parties with investment services or to carry out investment activities.
Article 45

Operating requirements

1. The professional practice of any financial intermediation activities shall depend on:

   a) authorisation granted by the competent authority;

   b) prior registration with the AGMVM.

2. The AGMVM shall organise a list of credit institutions and investment companies engaged in financial intermediation in Cape Verde under the freedom to provide services.

Article 46

Function of the register

Registration with the AGMVM shall serve to ensure prior control of the requirements for the exercise of each of the financial intermediation activities and to enable the organisation of the supervision.

Article 47

Registration procedure

1. The application for registration shall be accompanied by the documents needed to demonstrate that the financial intermediary has the human, material and technical resources necessary to pursue the activity in question.

2. Through inspection, the AGMVM may verify the existence of the resources referred to in the preceding paragraph.

3. Registration may only be made after communication by the competent authority certifying that the financial intermediary is authorised to perform the required activities.

4. It shall not be necessary to produce documents that are already in possession of the AGMVM or that the AGMVM can obtain in official publications or from the national authority that granted the authorisation or to whom the authorisation was communicated.

5. Shortcomings and irregularities in the application or in the documentation may be remedied within the period prescribed by the AGMVM.
Article 48
Tacit rejection
The registration shall be considered to be rejected if it is not made by the AGMVM within thirty (30) days from:

a) the notification of the authorisation; and

b) the date of receipt of the application or additional information that was requested.

Article 49
Refusal to register
1. Registration shall be refused if the financial intermediary:

a) is not authorised to conduct the intermediation activity to be registered;

b) does not demonstrate that it has the necessary skills and means to ensure the provision of the activities in question in terms of efficiency and safety;

c) has made false declarations;

d) does not remedy shortcomings and irregularities in the process within the period prescribed by the AGMVM.

2. Refusal of registration may be total or partial.

Article 50
Suspension of registration
When the financial intermediary fails to gather the resources necessary to ensure the provision of any of the intermediation activities in terms of efficiency and safety, the AGMVM may suspend the registration for a period not exceeding sixty (60) days.

Article 51
Cancellation of registration
1. The following shall constitute grounds for cancellation of the registration by the AGMVM:

a) a circumstance that would prevent the registration if such circumstance is not remedied within the period prescribed by the AGMVM;
b) revocation or expiry of the authorisation;

c) cessation of activity or inconsistency between the object and the activity effectively exercised.

2. A cancellation decision that is not based on the revocation or expiry of the authorisation shall be preceded by the formal assent of the Bank of Cape Verde, to be issued within fifteen (15) days.

**Article 52**

**General duties**

1. In carrying out any operations and in providing other services in intermediation of securities with which they were assigned, financial intermediaries shall serve their clients with the utmost diligence, loyalty, impartiality and discretion, and with absolute respect for their interests and shall, in particular:

   a) carry out transactions under the best market conditions without prejudice, however, to the strict observance of the instructions received from clients;

   b) swiftly carry out the orders received from clients for the purchase or sale of securities or, if the order is discretionary as to the timing of its execution, at the time deemed most appropriate for the purposes of the preceding paragraph;

   c) refrain from conducting and encouraging their clients to carry out repeated operations in the purchase and sale of securities, when such operations are not justified and are for the sole or main purpose of collecting the corresponding fees or any other object foreign to the interests of the client;

   d) refrain from keeping any securities for themselves when they have clients who requested them at an identical or higher price;

   e) refrain from selling securities held by them instead of identical securities whose sale was ordered by clients at an equal or lower price.

2. Financial intermediaries shall have a duty to strengthen investor confidence in the securities market, acting in it with the utmost business integrity, strictly observing the legal and regulatory provisions applicable to the intermediation activities they carry out, such as compliance with ethical
standards to which they are subject, and refraining from conducting or participating in any transactions or actions likely to jeopardise the regular operation of the market and its transparency and credibility.

3. In compliance with that established in the preceding paragraph, financial intermediaries shall take into consideration, on the one hand, the level of knowledge, experience and professionalism of clients as regards the securities market and, on the other, their financial situation and the consequences they may have on it, depending on their degree of risk, the operations ordered or the services to be provided.

4. Financial intermediaries who are aware of any manoeuvres aimed at manipulating the offer, demand or market prices of financial instruments, practices that include insider trading, acts through which a financial intermediary unlawfully avails itself of a control position in the market, or any other serious irregularities covered by the general provision in the preceding paragraph, shall take appropriate measures within their power to frustrate said manoeuvres and forthwith inform the stock exchange and the General Audit of the Securities Market of said facts.

### Article 53

**Disclosure requirements**

1. Financial intermediaries shall provide, in respect of the services they offers, as may be requested from them or that they effectively provide, all the information necessary to make a reasoned and informed decision.

2. The extent and depth of the information should be greater, the lesser the degree of knowledge and experience of the client.

3. The fact that the information items are included in the provision of advice, given in any way, or in a promotional or advertising message does not relieve the financial intermediary from observing the requirements and rules applicable to information in general.

4. The information referred to in sub-article 1 shall be provided in writing albeit in a standardised manner.
Article 54
Quality of the information

1. The information disclosed by the financial intermediary to non-qualified investors shall:

   a) include their name;

   b) not emphasise any potential benefits of financial intermediation or of a financial instrument without also giving a fair and prominent indication of any relevant risks;

   c) be provided so as to be understood by the average recipient;

   d) be provided so as not to hide or downplay important items, statements or warnings.

2. The comparison of financial intermediation, financial instruments or financial intermediaries shall focus on relevant aspects and specify the facts and assumptions on which it depends and the sources on which it relies.

3. Indications of the past performance of a financial instrument, financial index or financial intermediation activity shall:

   a) not be the most visible aspect of communication;

   b) include adequate information on the results covering the five (5) years immediately preceding, or the entire period for which the financial instrument has been offered if less than five (5) years but not less than one year, or for a longer period than the intermediary has decided and that is based, in any case, on full periods of twelve (12) months;

   c) refer to the reference period and source of information;

   d) contain a conspicuous warning that the data refer to the past and that the past performance does not constitute a reliable indicator of future results;

   e) where it is based on figures denominated in a currency other than that of the country in which a non-qualified investor resides, indicate the currency and include a warning that the gains for the investor may increase or decrease as a result of currency fluctuations; and

   f) where it is based on gross results, indicate the effects of the commissions, fees or other charges.
4. The simulation of past results shall refer only to financial instruments and financial indices and shall:

a) be based on actual past results of one or more financial instruments or financial indices that are identical or underlie the financial instrument concerned;

b) comply with the conditions provided for in paragraphs a) to c), e) and f) above in relation to the results seen in the past; and

c) contain a conspicuous warning that the figures refer to simulated past performance and that the past performance does not constitute a reliable indicator of future results.

5. The indication of future results:

a) cannot be based on a simulation of past results;

b) shall be based on reasonable assumptions supported by objective data;

c) if based on gross performance, shall indicate the effects of commissions, fees and other charges; and

d) shall contain a conspicuous warning that it is not a reliable indicator of future results.

6. The reference to a particular tax treatment shall prominently indicate that it depends on the individual circumstances of each client and is subject to change.

7. It is forbidden to refer to any competent authorities in such a way that would indicate any endorsement or approval by those authorities of the financial instruments or services of the financial intermediary.

### Article 55

**Information about the financial intermediary and the services provided by the intermediary**

1. The financial intermediary shall provide the following information to non-qualified investors:

a) the name, nature and address of the financial intermediary and the contact details necessary for the client to effectively communicate with the intermediary;
b) the languages in which the client can communicate with the financial intermediary and receive documents and other information from the intermediary;

c) the channels of communication to be used between the financial intermediary and the client, including communication by email, where appropriate, for sending and receiving orders;

d) a statement certifying that the financial intermediary is authorised to provide financial intermediation services, an indication of the date of authorisation with reference to the supervisory authority and the respective contact address;

e) the nature, frequency and periodicity of reports on the performance of the service to be provided by the financial intermediary to the client;

f) if the financial intermediary holds financial instruments or cash from clients, a brief description of the measures taken to ensure their protection;

g) a description, even if provided in summary form, of the policy on conflicts of interest followed by the financial intermediary;

h) the existence and form of operation of the service of the financial intermediary designed to receive and examine complaints from investors as well as an indication of the possibility of lodging a complaint with the supervisory authority;

i) the nature, general and specific risks, including liquidity, credit or market risks, and the implications underlying the service to be provided, which must be known in order for the investor to take a decision, taking into account the nature of the service to be provided, the knowledge and experience shown, giving him a document containing such information.

2. When the client is a qualified investor, the provision provided in the preceding paragraph shall only apply if the investor expressly requests the information referred to therein, in which case the financial intermediary must expressly inform the client of that right.
Article 56
Information on financial instruments

1. The financial intermediary shall inform investors of the nature and risks of financial instruments, explaining with a sufficient degree of detail the nature and risks of the type of financial instrument in question.

2. The description of risks shall include:
   a) the risks associated with the financial instrument, including an explanation of the impact of the leverage effect and risk of losing the entire investment;
   b) the volatility of the price of the financial instrument and the possible limitations of the market in which it is traded;
   c) the fact that the investor might, as a result of operations on the financial instrument, enter into financial commitments and other additional obligations, besides the cost of acquisition thereof;
   d) any requirements in relation to margins or similar obligations applicable to such financial instruments.

3. The information provided to a non-qualified investor on a security subject to a public offer shall include information about where the respective prospectus can be obtained.

4. Where the risks associated with a financial instrument comprising two or more financial instruments or services are likely to be greater than the risks associated with each financial instrument or service that comprises it, the financial intermediary shall provide a description of how its interaction increases the risk.

5. In the case of financial instruments that include a guarantee by a third party, the information on the guarantee shall contain sufficient data on the guarantor and the guarantee in order to allow a proper assessment by a non-qualified investor.

Article 57
Registration of operations

1. Financial intermediaries shall keep records of the stock exchange operations in which they participate, identifying the client, the security or financial
instrument traded, the respective quantity, the price and the date of the transaction.

2. The records of the operations shall be kept for a minimum period of 5 (five) years.

**Article 58**

**Communication and consultation**

1. Financial intermediaries shall submit a daily report to the AGMVM allowing the identification of the stock exchange operations in which they were involved, indicating for each one of them the client, the financial instrument and the amount traded thereof and the price.

2. The AGMVM may at any time require the financial intermediaries to consult the records of the operations carried out by them, as well as other information relating to them.

**Article 59**

**Professional secrecy**

1. Financial intermediaries, members of their governing bodies as well as their employees, authorised representatives and other persons who render services to them on a permanent or accidental basis are subject to professional secrecy about all matters pertaining to the operations carried out and the services provided to their clients, as well as on any facts or information relating to said clients or to third parties and which they have access to in the exercise of the respective activities.

2. The duty established in the preceding paragraph shall cease when:

   a) the intermediary and the persons named in sub-article 1 of this Article have to provide information or other data to the General Audit of the Securities Market or to the Stock Exchange, within their respective skills and in the cases and terms expressly set forth in this Code or in special legislation pertaining to them;

   b) there is a legal measure that provides otherwise;

   c) the disclosure of information or the provision of information in question has been authorised in writing by the person to which they relate.
Article 60

Regulation of intermediation activities

The regulation of financial intermediation activities, including conditions for access to the financial intermediation activity in the Stock Exchange, shall be established by law.

Article 61

Guarantee of the stock exchange operator

Before the start of operations at the Stock Exchange, each stock exchange operator shall provide a guarantee against the liabilities incurred by them in the operations in which the operator intervenes in the terms set out in the statute referred to in the preceding Article.

CHAPTER V

Securities

Section I

General provisions

Article 62

Forms of representation

1. Public funds, stocks, bonds and other securities may be represented by securities or may take book entry form.

2. In the case of shares and other securities convertible into shares or that entitle their subscription or acquisition, the contract of the issuing company shall establish the form of representation they may take, it being understood in their silence that both forms are possible.

3. The form of representation chosen for each issue, even if it is done in series, shall necessarily apply to all securities, except for the purpose of trading abroad.

Article 63

Decision to convert

1. Unless prohibited by law or statute, the issuer may decide to convert the securities in relation to their form of representation, establishing for this purpose a reasonable period, not exceeding 1 (one) year.
2. The decision to convert shall be published.
3. Conversion costs shall be borne by the issuer.

**Article 64**

**Conversion of book entry securities into certified securities**

1. Book entry securities shall be deemed to be converted into certified securities when the securities become available for delivery.
2. The records of the converted securities shall be destroyed or cancelled with reference to the conversion date.

**Article 65**

**Conversion of certified securities into book entry form**

1. Certified securities are converted into book entry form by entering them in a book entry account after the expiry of the deadline for delivery by the issuer of the securities to be converted.
2. Certified securities to be converted shall be delivered to the issuer or deposited with the entity providing the registration service after conversion.
3. The certificates of securities not delivered within the period prescribed by the issuer only entitle the holders to apply for registration in their favour.
4. The issuer shall arrange for the disposal of converted securities through their destruction or by any other means indicating the conversion.
5. The conversion of certified securities into a centralised deposit system of book entry securities shall be made simply by the issuer notifying the managing body of the centralised system, which shall promote the destruction of the securities.

**Article 66**

**Securities in registered form or bearer form**

1. Securities are in registered or bearer form depending on whether the issuer knows at any time the identity of the holders or not.
2. Unless legally or statutorily provided for or as a result of the special conditions laid down for each issue, certified securities shall be convertible among themselves.
Article 67
Class of securities

1. Securities of the same nature that are part of the same issuance shall grant their holders equal rights.

2. Exceptions to the provision in the preceding sub-article are the issuance of bonds and other debt securities that are issued in series, in which the return, maturity of the principal or interest of each series may be different from that established for the other securities.

3. Securities issued by the same entity, although in various issues or series, and which offer their holders equal rights, being fungible, shall constitute one class.

Article 68
Exercise of rights

1. Where the exercise of rights attaching to any securities depends, legally or statutorily, on their delivery or deposit, in any form and with any entity, they may be replaced by a declaration issued and authenticated by a financial intermediary, stating that these securities are deposited with it, provided that the declaration is presented or delivered by the date on which the law or contract requires the delivery or deposit.

2. In the cases of the previous number and where the exercise of the rights depends on the corresponding securities continuing to be held by the person until said rights are exercised, on issuing the declaration the financial intermediary shall block the securities in question in the account in which they are deposited until the date specified for that purpose by the person concerned, which is indicated in the declaration as the limit of its validity, and no operation may be carried out during that period that involves the transfer of the ownership of the securities or of the rights for the exercise of which the declaration is sought.

3. In the case of subscription rights or any other rights detachable from the respective securities which may be exercised or traded separately, the financial intermediary may, at the request of the interested party, issue independent documents intended to serve as the basis for said exercise or transaction, simultaneously indicating in the account in which the securities
in question are deposited the fact that, from the date of issuance of the aforementioned documents and except for the delivery of the documents without their having been used, the securities may only be traded with the exclusion of said rights.

Section II
Certified securities

Article 69
Issuance and delivery of securities

The issuance and delivery of securities to the first holder is the duty of the issuer, who shall bear the charges.

Article 70
Particulars of the securities

1. Securities shall contain the following information:

a) the identification of the issuer, including the name or denomination, the headquarters, the legal person identification number, the trade registry where the issuer is registered and the registration number;

b) the complete characteristics of the security, namely the type, the rights vis-a-vis the type that are specially included or excluded, the form of representation and the nominal value or percentage;

c) the order number, except bearer securities;

d) the number of rights represented in the security and, if applicable, the total nominal value; and

e) the identification of the holder in registered securities.

2. The securities are signed, albeit through a seal, by a holder from the issuer’s board of directors.

3. Changes to any of the particulars listed on the security may be made by replacing the security or, as long as the change is in accordance with the preceding paragraph, in the respective text.
Article 71
Division and concentration of securities

Securities represent one or more units in the same class of securities where the holder may request the division or concentration of securities, bearing the respective charges.

Article 72
Fungibility

1. Securities of the same nature and nominal value, issued by the same entity, which are fully paid up and offer their holders equal rights, regardless of their numbering, are considered fungible.

2. Registered securities are only considered fungible when, in addition to meeting the requirements of the preceding paragraph, they are subject to the deposit scheme prescribed in the following Article.

Article 73
Deposit scheme

1. Securities may only be deposited with financial intermediaries that are legally and statutorily authorised to receive securities from the public for safekeeping and administration of stock exchange orders for transaction.

2. The deposit of securities shall only be considered when the depositories receive the corresponding securities.

3. It is up to the depository financial intermediary to use the zeal and prudence reasonably required to assess the genuineness and regularity of the securities delivered for deposit.

4. In no case shall the deposit of securities imply that their ownership is transferred to the depository or that the depository may use them for purposes other than those arising under the deposit agreement.

5. When securities considered fungible are deposited, the depository may, when the deposit ceases, restore identical securities but with different numbering.

6. Securities representing nominative values that are deposited with an authorised financial intermediary and that meet the conditions set forth
in sub-article 1 of the preceding Article shall be considered fungible for all purposes, including those provided for in the preceding paragraph, as long as they are deposited.

7. The deposit scheme established in this Article is an alternative to the deposit scheme prescribed in commercial law and:

a) the registration shall be cancelled on the same day by the depository financial intermediary with the issuer when registered securities have been deposited;

b) securities shall be registered on the same day by the depository financial intermediary with the issuer when the deposit ceases.

8. Issuers of securities subject to a registration scheme and admitted to trading in the stock exchange shall be required to carry out the movements referred to in the preceding sub-article on the business day following the receipt of the corresponding communications.

**Article 74**

**Transfer of bearer securities**

1. Bearer securities shall be transferred by handing over the security to the purchaser or to the depository indicated by the purchaser.

2. If the securities have already been deposited with the depository indicated by the purchaser, transfer shall take place by registration in the latter’s account, effective from the date of application for the registration.

3. In the case of transfer due to death, the registration described in the preceding paragraph shall be made based on documents that prove the right to succession.

**Article 75**

**Transfer of nominal securities**

1. Nominal securities shall be transferred by a declaration of transfer, written on the security in favour of the transferee, followed by registration with the issuer or its representing financial intermediary.

2. Declaration of an *inter vivos* transfer shall be made:
a) by the depository, in non-centralised deposited securities, who shall accordingly draw up the respective registration in the transferee’s account;

b) by the competent judicial officer, when conveyance of securities results from judicial sentence or forced sale;

c) by the transferor, in any other situation

3. Declaration of transfer resulting from death shall be made:

a) in case of judicial distribution, as described in the previous sub-article 2b);

b) in the remaining cases, by the head of the family or notary who executed the deed of distribution of the estate.

4. Any of the entities mentioned in sub-articles 2 and 3 above shall have the right to request registration with the issuer.

5. The transfer shall come into effect as from the date of the request for registration with the issuer.

6. Registration with the issuer in relation to the nominal securities shall be free of charge.

7. The issuer may not, for whatever reason, invoke against the interested party the lack of registration that should have been made pursuant to the terms of the previous sub-articles.

Section III

Book entry securities

Article 76

Book entry securities

Book entry securities shall be regulated by special legislation.

Section IV

Centralised system

Article 77

Structure and functions of the centralised system

1. Centralised securities systems shall consist of inter-linked groups of accounts, through which the constitution and transfer of securities is processed and
which assume control over the amount of securities in circulation and their inherent rights.

2. The centralised securities systems may only be managed by entities that fulfil the requirements established by special legislation.

3. The provisions of this Section shall not apply to centralised systems directly managed by the Bank of Cape Verde.

**Article 78**

**Operational rules**

1. The operational rules necessary for the functioning of centralised systems shall be established by the respective managing body and shall be subject to registration.

2. The AGMVM shall refuse registration or impose amendments when it considers the registration inadequate or contrary to legal or regulatory provisions.

**Article 79**

**Integration and exclusion of securities**

1. Integration in a centralised system shall cover all securities of the same class, shall depend on request by the issuer and shall be made by registration in an account opened with the centralised system.

2. Securities that are not compulsorily integrated in a centralised system may be excluded at the request of the issuer.

**Article 80**

**Integral accounts of the centralised system**

1. The centralised system shall be constituted by the following accounts, at least:

   a) issue accounts, opened with the issuer;

   b) individual registration accounts, opened with financial intermediaries authorised for this purpose;

   c) issue controlling accounts, opened by each of the issuers with the system’s managing body;
accounts for the control of individual registration accounts, opened by financial intermediaries with the system managing body.

2. If securities have been issued by an entity subject to foreign law, the issue account described in sub-article 1a) above may be opened with a financial intermediary authorised to conduct business in Cape Verde or be replaced by information provided by another centralised system with which there is adequate co-ordination.

3. Individual registration accounts may also be opened with financial intermediaries recognised by the centralised system managing entity, provided they are organised in conditions of efficiency, safety and control equivalent to those required from financial intermediaries authorised to conduct business in Cape Verde.

4. The accounts described in sub-article 1d) above shall be global accounts opened in the name of each one of the entities authorised to manage individual registration accounts, and the sum of the respective totals should be, in relation to each class of securities, equal to the sum of the total of each one of the individual registration accounts.

5. The accounts described in sub-article 1d) above shall separately disclose the amount of securities held by each financial intermediary acting as registering entity and holder.

6. In the cases set out in the AGMVM’s regulations, individual registration accounts may be opened directly with the centralised system management body, to which the legal system of accounts of the same nature with financial intermediaries shall apply.

7. Specific sub-accounts shall be opened with the centralised system’s management body, relating to pledged securities or securities which may not be transferred or, for any other reason, may not fulfil the requirements of trading in a regulated market.

**Article 81**

**Control of securities in circulation**

1. The centralised system’s managing body shall adopt the necessary measures to prevent and correct any discrepancies between the amount, total and class of securities issued and those in circulation.
2. If the accounts described in sub-article (1) of the previous Article refer only to one part of the class, the control over the entire class shall be ensured through proper co-ordination with other centralised systems.

**Article 82**

**Information to be provided to the issuer**

The centralised system’s managing body shall provide the issuer with information on:

*a) the conversion of book entry securities into certificated securities or the conversion of certificated securities into book entry securities;*

*b) the details necessary for the exercise of patrimonial rights inherent in the registered securities and the control of such exercise by the issuer.*

**Article 83**

**Civil liability**

1. The centralised system’s managing body shall be liable for damages caused to financial intermediaries and issuers as a result of the omission, irregularity, error, shortcomings or delay in performing registrations and in transferring information that it should provide, except if it is the fault of the injured parties.

2. The centralised system’s managing body shall have the right to redress against the financial intermediaries for the compensation paid to the issuers, and against these, for the indemnities paid to financial intermediaries whenever the facts on which liability is based are imputable, in either case, to the financial intermediaries or the issuers.

**CHAPTER VI**

**Public companies**

**Section I**

**General provisions**

**Article 84**

**Criteria**

1. The following shall be considered to be companies open to public investment, hereinafter described as “public company”:
Public companies

a) a company incorporated through an initial public offer for subscription specifically addressed at individuals or entities resident or established in Cape Verde;

b) a company that issues shares or other securities that grant the right to subscribe or acquire shares that have been the object of a public offer for subscription specifically addressed at individuals or entities resident or established in Cape Verde;

c) a company that issues shares or other securities that grant the right to their subscription or acquisition and are or have been listed on a regulated market situated or operating in Cape Verde;

d) A company that issues shares that have been sold by public offer for sale or exchange in a quantity greater than 10% (ten percent) of the company’s share capital directed specifically at individuals or entities resident or established in Cape Verde;

e) a company created as a result of the demerger of a public company or a company that incorporates, through merger, all or part of its net equity.

2. The company’s bylaws may make the launching of a public offer for sale or exchange of nominal shares that result from the opening of share capital according to sub-paragraph d) of the previous sub-article, subject to a resolution by the General Meeting.

3. A public company shall cease, for all purposes, to be considered as such upon a declaration of the AGMVM, to be made public by means of a notice to be published in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system, which shall only be issued once the general meeting of the company has decided as such by a majority vote of more than 90% (ninety percent) of the votes corresponding to the share capital.

Article 85

Mention in external acts

The status of public company shall be mentioned in all external acts of the company.
Article 86

Equal treatment

A public company shall ensure equal treatment to the holders of securities issued by it and that belong to the same class.

Section II

Qualifying holdings

Article 87

Disclosure requirements

1. Any entity reaching or exceeding a holding of 10% (ten percent), 20% (twenty percent), a third, half, two thirds and 90% (ninety percent) of the voting rights corresponding to the share capital of a public company subject to the law of Cape Verde or reducing its holding to a value lower than any of the above thresholds, shall, within 4 (four) trading days of the occurrence of said fact or the knowledge thereof:

   a) inform the AGMVM and the investee company of said fact;

   b) inform the entities described in the preceding paragraph of those situations that determine the granting to the participant of voting rights inherent in securities belonging to third parties, according to sub-article 1 of Article 93.

2. For the purposes of the preceding paragraph:

   b) it is deemed that the participant has knowledge of the determinant fact of the disclosure requirements within a period of 2 (two) trading days of the occurrence of said fact;

   a) voting rights shall be calculated on the basis of all the shares with voting rights, with the suspension of the respective exercise being of no consequence to the calculations.

3. The disclosure made in accordance with the preceding paragraphs shall include:

   a) the identification of the entire chain of entities to which the qualifying holding is assigned by sub-article 1 of Article 93, regardless of the law to which same is found to be subject;
b) the percentage of voting rights assigned to the holder of the qualifying holdings, the percentage of share capital and the number of corresponding shares, as well as, when applicable, the details of the holding per class of shares;

c) the date whereon the holding reached, exceeded or was reduced to the thresholds prescribed in paragraph 1.

4. In the event of the reporting duty being incumbent on more than one participant, a single disclosure may be made that would exonerate the participants from the disclosure requirements in the sense that the communication would be considered done.

5. When the relevant thresholds are exceeded, pursuant to sub-article e) of Article 93, the holding of the financial instruments that grant the participant the right to acquire, exclusively on his own initiative, by virtue of an agreement, shares with voting rights, already issued by the issuer whose shares are admitted to trading in a regulated market, the participant shall:

a) include all the instruments that have the same underlying asset in the disclosure;

b) make as many disclosures as there are issuers for the underlying asset of the same financial instrument;

c) include in the disclosure referred to in the preceding paragraph, an indication of the date or period wherein the acquisition rights that the instrument confers may be exercised and the date whereon the instrument lapses.

6. When the reduction or over-running of the relevant thresholds result, pursuant to sub-article 1g) of Article 93, from the assignment of discretionary powers to a single general meeting:

a) whoever confers discretionary powers may make a single disclosure at that time, provided that the information required in paragraph 3 as to the beginning and the end of the assignment of discretionary powers for the exercise of the voting rights is made clear; and

b) the person to whom the voting rights are assigned may make a single disclosure at the moment when the discretionary powers are conferred,
provided that the information required in paragraph 3 as to the beginning and the end of the assignment of discretionary powers for the exercise of the voting rights is made clear.

**Article 88**

**Non-transparency of the qualifying holding**

1. In the absence of the disclosure mentioned in Article 87, and if same does not observe the provision of sub-paragraph a) of sub-article 3 of the mentioned Article or if there are substantiated doubts as to the identity of the persons to whom the voting rights on a qualifying holding may be ascribed in accordance with sub-article 1 of Article 93, or concerning the absolute compliance of the disclosure requirements, the AGMVM shall notify the interested parties, the administrative and supervisory bodies and the chair of the general meeting of the public company in question.

2. The interested parties may provide evidence in order to clarify the aspects mentioned in the disclosure of the AGMVM or to take measures with a view to ensure the transparency of the ownership of the qualifying holdings, up to 30 (thirty) days after the disclosure.

3. If the information furnished or the measures taken by the interested parties do not bring closure to the situation, the AGMVM shall inform the market of the lack of transparency regarding the ownership of the qualifying holdings in question.

4. As from the moment that the AGMVM informs the market under the terms mentioned in the preceding paragraph, the exercise of voting and financial rights shall be immediately and automatically suspended, except for the preference right for the subscription of capital increases regarding the qualifying holding in question, until the AGMVM informs the market and the entities referred to in paragraph 1 that the ownership of the qualifying holding is deemed transparent.

5. The financial rights mentioned in the preceding number that the qualifying holding in question is entitled to, shall be deposited in a special account opened at a credit institution that is authorised to accept deposits in Cape Verde. Debit entries shall not allowed during the suspension period.
Article 89

Holdings of public companies

Pursuant to Article 87, public companies shall disclose the holdings held by companies based outside Cape Verde.

Article 90

Disclosure

1. Pursuant to Article 87, the investee company shall disclose all the information received as soon as possible and within 3 (three) trading days of receipt thereof.

2. The investee company and the board members as well as the stock exchanges to which shares or other securities that confer the right to subscription or acquisition are admitted, shall inform the AGMVM whenever they are aware or have strong circumstantial evidence of a breach of the disclosure requirements laid down in Article 87.

3. The disclosure requirement may be complied with by a company with which the investee company has a control or group relationship.

4. The disclosure referred to in this Article may be carried out in a language of current use in international financial markets if said language was used in the original disclosure.

5. The AGMVM may establish by regulation the means of disclosing the information referred to in this Article.

Article 91

Trading days

1. For the purposes of this section, trading days shall be deemed to be days on which the regulated market, wherein the shares or other securities that confer the right to subscription or acquisition are admitted, are open for trading.

2. The AGMVM shall disclose via its information disclosure system a calendar reflecting the trading days of the regulated markets located or operating in Cape Verde.
Article 92

Shareholder agreements

1. Shareholder agreements aimed at acquiring, maintaining or reinforcing a qualifying holding in a public company or securing or frustrating the success of a takeover shall be communicated to the AGMVM by any of the contracting parties within 3 (three) days of their execution.

2. The AGMVM shall determine the publication, in full or in part, of the agreement according to its relevance to the control over the company.

3. Company resolutions based on express votes exercised pursuant to agreements that have not been communicated or published according to the terms of the previous sub-articles shall be voidable, except if it is proved that the resolution would have been taken without these votes.

Article 93

Assignment of voting rights

1. In the calculation of qualifying holdings consideration shall be given, in addition to those attaching to shares of which the participant has ownership or usufruct, to voting rights:

a) held by third parties in their own name, but on behalf of the participant;

b) held by a company with which the participant is in a control or group relationship;

c) held by holders of voting rights with whom the participant has entered into a voting agreement, except if, by virtue of said agreement, the participant is bound to follow a third party’s instructions;

d) held, if the participant is a company, by members of its administration and supervisory committees;

e) which the participant may acquire pursuant to an agreement entered into with the respective holders;

f) attaching to shares held by way of security by or managed by or deposited with the shareholder if the voting rights have been assigned to the shareholder;
g) held by holders of voting rights which have granted the shareholder discretionary powers to exercise them;

h) held by persons that have entered into any agreement with a shareholder aimed at either acquiring control of the company or frustrating any changes to its control or otherwise constituting an instrument of concerted exercise of influence over the company in which they own shares;

i) attributable to any individual or entity described in one of the previous paragraphs by application, with due adaptations, of the criteria described in any of the other paragraphs.

2. Holders of securities in which inherent voting rights may be attributable to the individual or entity with a qualifying holding shall provide such individual or entity with the necessary information for the purposes of Article 87.

3. Voting rights attaching to shares forming part of managed funds or portfolios shall not be considered attributable to the company controlling the investment fund's managing body, the venture capital fund's managing body or a financial intermediary authorised to provide portfolio management services on behalf of third parties and associate companies of pension funds, provided that the managing body or financial intermediary exercises such voting rights independently of the controlling company or associate companies.

4. For the purposes of sub-paragraph h) of sub-article 1, agreements concerning the transfer of shares representing the share capital of the trustee company shall be presumed to be instruments of concerted exercise of influence.

5. The presumption referred to in the preceding paragraph may be rebutted before the AGMVM by proving that the relationship established with the shareholder is independent of any effective or potential influence over the trustee company.

Article 94
Assignment of voting rights concerning shares forming part of collective investment undertakings, pension funds or portfolios

1. For the purposes of sub-article 3 of the preceding Article, a company that
controls the managing body or financial intermediary and the associate companies in pension funds shall benefit from a derogation of aggregated assignment of voting rights, provided that:

a) they do not interfere, by means of direct or indirect instructions, in the exercise of voting rights attaching to shares forming part of the investment fund, pension fund, venture capital fund or portfolio;

b) the managing body or financial intermediary shows autonomy in respect of decision-making processes in the exercise of voting rights.

2. In order to benefit from the derogation of the aggregated assignment of voting rights, the company that controls the managing body or financial intermediary shall:

a) submit an updated list to the AGMVM of all the managing bodies and financial intermediaries under a controlling relationship and, in the case of entities subject to foreign law, indicate the respective supervisory authorities thereto;

b) submit to the AGMVM a substantiated statement, concerning each managing body or financial intermediary, stating the compliance with the provisions of the preceding paragraph;

c) demonstrate to the AGMVM, at its request, that:

i) the organisational structures of the relevant entities ensure the independent exercise of voting rights;

ii) the persons who exercise voting rights do so independently; and

iii) there is a clear written mandate that, in the cases wherein the controlling company receives services provided by the controlled entity or holds direct holdings in assets managed by said entity, a contractual relationship between the parties shall be established in accordance with normal market conditions for similar cases.

3. For the purposes of sub-paragraph c) of the preceding paragraph, the relevant entities shall adopt, at the least, written policies and procedures that appropriately prevent the access to information concerning the exercise of voting rights.
4. In order to benefit from the derogation of aggregated assignment of voting rights, associate companies in pension funds must send the AGMVM a substantiated statement declaring that they comply with the provisions of sub-article 1.

5. In the event of the assignment being due to the holding of financial instruments which confer on the participant the right to acquire, exclusively on its own initiative, under a formal agreement, shares with voting rights, already issued by an issuer whose shares are already admitted to trading in a regulated market, it shall suffice for the purposes of sub-article 2, that the company referred to therein submits to the AGMVM the information specified in sub-paragraph a) thereof.

6. For the purposes of sub-article 1:

   a) direct instructions are considered to be those given by the controlling company or other entity controlled by same that specifies how the voting rights are to be exercised in specific cases;

   b) indirect instructions are considered to be those that generally or particularly, regardless of form, are transmitted by the controlling company or any entity controlled by same, and restrict the margin of discretion of the managing body, financial intermediary and associated company in pension funds with regard to the exercise of voting rights so as to serve the specific business interests of the controlling company or other entity controlled by same.

7. As soon as, pursuant to sub-article 1, it is considered that the independence of the managing body or financial intermediary that involves a qualifying holding in a public company is not substantiated, without prejudice to any sanctions applicable thereto, the AGMVM shall inform the market and communicate this event to the chair of the general meeting, the board and the supervisory board of the affiliate company.

8. The AGMVM’s declaration entails immediate assignment of all voting rights attaching to the shares forming part of the investment fund, pension fund, venture capital fund or portfolio, as long as the independence of the managing body or financial intermediary is not demonstrated, with the corresponding consequences, and the shareholders or clients of the managing body or financial intermediary being informed thereof.
Article 95
Control and group relationships

1. For the effects of this Code, a control relationship shall be deemed to exist between a natural or legal person and a company when, regardless of whether the domicile or headquarters is located in Cape Verde or abroad, said person is capable of exerting, directly or indirectly, a control influence over said company.

2. In any case, a control relationship shall exist when a natural or legal person:
   
   a) holds the majority of voting rights;
   
   b) may exercise the majority of voting rights, according to the terms of the shareholder agreement;
   
   c) may appoint or dismiss the majority of the members of the board of directors or supervisory committee.

3. For the effects of this Code, companies qualified as such by the Companies Code, regardless of whether their headquarters are in Cape Verde or abroad, shall be deemed to be in a group relationship.

Article 96
Equality

1. The following duties shall not be applicable to issuers with registered offices outside Cape Verde:

   a) should the applicable law in Articles 87 and 90, require that the information on qualifying holdings be disclosed within a (seven) 7-day trading deadline;

   b) should the applicable law in Articles 93(3) and 94(1) oblige the managing bodies of the investment fund or the financial intermediaries authorised to carry out portfolio management activities to maintain at all times the independence of the exercise of the voting right apropos the controlling company and not to take into account the interests of the controlling company or any other entity controlled by same, whenever conflicts of interest arise.

2. For the purposes of paragraph b) of the preceding paragraph, the controlling company shall:
a) comply with the disclosure duties mentioned in sub-articles 2 and 5 of Article 94;

b) state, as regards each of the entities mentioned in sub-paragraph b) of the preceding paragraph, that the requirements mentioned in Article 94(1) have been met;

c) demonstrate, at the request of the AGMVM, that the requirements established in Article 94(2)(c) and (3), are complied with.

Section III

Corporate resolutions

Article 97

Postal vote

1. In general meetings of public companies, the right to vote on matters that have been mentioned in the notice convening the meeting may be exercised by post.

2. The provision of the previous sub-article may be waived by the company’s bylaws, except in relation to an amendment of same and the election of members of the governing bodies.

3. For the purposes of sub-paragraph 1, the notice convening the general meeting shall include:

   a) an indication that the voting right may be exercised by post;

   b) a description of the manner in which the postal vote is processed, including the address and deadline for the receipt of the explanation of vote.

4. The company shall certify the authenticity of the vote and ensure its confidentiality until the voting takes place.

Article 98

Suspension of a company resolution

1. The protective measure for the suspension of a company resolution taken by a public company may only be requested by shareholders that individually or collectively own shares corresponding at least to 0.5% (zero point five percent) of the share capital.
2. Any shareholder may, however, request in writing that the board of directors refrain from executing a company resolution it considers invalid, specifying the respective defects.

3. If the resolution is declared null or void, the members of the board of the company that execute the resolution without taking into consideration the request presented according to the terms of the previous sub-article shall be liable for the damages caused.

**Article 99**

**Share capital increase**

Shares issued by a public company shall constitute an autonomous class:

a) for a period of 30 (thirty) days from the capital increase resolution; or

b) until the transit in *rem judicatam* of a judicial decision on an action of annulment or declaration of nullity of a company’s resolution proposed within that period.

**Article 100**

**Annulment of a resolution for share capital increases**

1. The annulment of a share capital increase resolution of a public company shall lead to the cancellation of new shares if these have been admitted to listing on a regulated market.

2. Consideration for the cancellation shall be due in the amount corresponding to the real value of the shares, as determined at the company’s expense by a qualified and independent expert designated by the AGMVM.

3. Creditors whose rights accrued before the registration of annulment may, within a period of 6 (six) months from this registration, demand in writing that the company provides adequate guarantees for the performance of unmatured obligations.

4. Payment of the consideration for the cancellation may only be carried out after the time period described above has expired and creditors who have contacted the company in the same period have been paid or guaranteed.
Section IV
Loss of the status of public company
Article 101
Requirements

1. A public company shall lose this status when:

   a) a shareholder has, as a consequence of the takeover, reached a holding of more than 90% (ninety percent) of the voting rights calculated according to the terms of sub-article 1 of Article 93;

   b) the loss of such status is decided in a general meeting of the company by a majority of shareholders representing not less than 90% (ninety percent) of the company’s capital and in meetings of special shareholders and other securities that grant the right to subscription or acquisition of shares by a majority of shareholders representing not less than 90% (ninety percent) of said securities;

   c) one year has elapsed since the exclusion of shares from trading in regulated markets, based on the lack of public dispersion.

2. The company, or an offeror in the case of sub-paragraph a) of the previous sub-article, may request the AGMVM to cancel its registration as a public company.

3. In the case of sub-article 1b) above, the company shall propose a shareholder who will undertake to:

   a) acquire, within the period of 3 (three) months following the AGMVM’s granting, the securities owned at that time by those that have not voted favourably on any resolutions of the general meeting;

   b) guarantee the obligation described in the previous paragraph by means of a bank guarantee or cash deposit with a credit institution.

4. The consideration for the acquisition described in sub-article 3 shall be calculated under the conditions laid down for the consideration of the mandatory takeover.
Article 102
Publications
1. The AGMVM’s decision shall be published, at the initiative and expense of the company, in the bulletin of the regulated market where the securities were listed and by broad dissemination in Cape Verde.

2. In the case of sub-article 1b) of the previous Article, the publication shall mention the terms of the acquisition of securities and be repeated at the end of the first and second month of the period for exercising the right of disposal.

Article 103
Consequences
1. The loss of public company status shall be effective from the publication of a favourable decision by the AGMVM.

2. The declaration of loss of public company status shall imply the immediate exclusion from trading in the regulated market of the company’s shares and securities that grant subscription or acquisition rights, their readmission being prohibited for a period of 1 (one) year.

TITLE II
PRIMARY MARKET
Article 104
Who may issue securities
Securities may only be issued by legal persons and other public and private entities so authorised by general or special legislation, respective bylaws or organic law.

Article 105
Prohibition from tacit subscription
The will to subscribe securities shall be expressly stated.
Article 106
Collective issuance

1. The issuance of debt securities may be held jointly and severally by multiple co-issuers.

2. In the case of joint issuance, the limits of Article 391 of the Commercial Company Code shall be taken into consideration in relation to the co-issuer with the lowest share capital.

TITLE III
SECONDARY MARKETS
CHAPTER I
General provisions
Article 107
Enunciation

Secondary markets in securities shall be:

a) the stock exchange;

b) to OTC market.

Article 108
Stock exchange

The purpose of the stock exchange shall be to:

a) maintain a place and systems equipped with the means necessary for the operation of a free and open market for the buying and selling of securities through authorised intermediaries, under appropriate conditions of efficiency, continuity and liquidity, with a view to safeguarding the public interest and the protection of the interests of investors;

b) ensure appropriate services for the registration, clearing and settlement of such operations either through the stock exchange itself or through third parties,

c) disclose timely and sufficient information on the operations;

d) carry out other activities as may be imposed on it or permitted by law or
authorised by the Auditor General of the Securities Market in the scope of its primary object referred to in the preceding paragraphs

Article 109

OTC market

The OTC market shall include all operations involving the buying and selling of securities conducted in the OTC market, on their own account or on the account of others, by traders or any other financial intermediaries legally and statutorily authorised to conduct such operations.

CHAPTER II

Stock exchange

Section I

Creation and supervision

Article 110

Constitution and internal regulation

1. The stock exchange shall be constituted by the statutory order of the Government.

2. The internal regulation of the stock exchange shall be approved by the Finance Minister.

Article 111

Closure and suspension

1. The stock exchange shall be closed when the Council of Ministers so decides by decree-law, in which case the Government may, at its discretion, request the prior opinion of the Auditor General of the Securities Market.

2. The total or partial suspension of the activity of the stock exchange, regardless of the period of time, shall be established by Ordinance of the Finance Minister.
Section II
Stock markets
Sub-section I
General provisions
Article 112
Stock markets
The stock market shall mandatorily include an official listed market. An unlisted market may be created by regulation of the AGMVM.

Article 113
Parallel markets
1. Except in the cases and in the way expressly provided for in and governed by the Code, any public meetings in which securities or financial instruments are traded or offered shall be strictly forbidden.
2. Transactions carried out in violation of the preceding paragraph cannot be brought to court.

Sub-section II
Official listed market
Division I
Listing
Article 114
Securities that can be listed
1. The following shall be admitted to listing:
   a) national and foreign public funds and securities equivalent to them;
   b) securities issued by national and foreign companies or entities;
   c) derivative financial instruments.
2. For the purposes of this Code, public funds shall be considered to be:
   a) securities representing the national public debt;
   b) securities issued by public institutions and national public funds;
c) any other national securities that, by law, shall be considered public funds;

d) securities issued by foreign entities of a similar nature to those referred to in the preceding sub-paragraphs.

3. Debt securities issued by any national companies or entities, guaranteed by the State of Cape Verde, shall be equivalent to public funds.

4. Debt securities issued by any foreign companies or entities, guaranteed by a foreign country, as well as the debt issued by international financial institutions shall be equivalent to public funds.

**Article 115**

**Admission to listing of public funds**

1. National and foreign public funds and securities equivalent to them shall be admitted to listing by authorisation of the Finance Minister, with waiver of any other formalities.

2. Admission to listing shall be unofficial and necessarily determined by the Finance Minister, with regard to sub-paragraphs a), b) and c) of sub-article 2 of the preceding Article, as soon as the securities become negotiable.

3. In other cases provided for in sub-article 1, admission to listing shall be established by the AGMVM of its own motion, or requested by the issuer or by any of the holders of the securities to be admitted to trading.

**Article 116**

**Admission to listing of shares**

1. The listing of shares shall depend on compliance with all of the following requirements:

   a) the issuer shall be established and operating in accordance with the legal and statutory requirements;

   b) the legal position of the shares shall comply with the legal provisions applicable;

   c) the expected market capitalisation of the shares covered by the application for admission to official listing or, failing that, the equity of the company including the retained earnings in the previous year shall not be less than
100,000,000$00 (one hundred million escudos).

d) the company shall have published its management reports and annual accounts for the two years preceding the application for admission;

e) the shares shall be freely negotiable;

f) a sufficient distribution of shares to the public shall be ensured at the time of listing;

g) the application for admission to listing shall cover all shares of the same class that are issued;

h) the company shall present an appropriate economic and financial situation.

2. The stock market may, exceptionally, waive the requirement contained in sub-paragraph d) above where this is recommended for market reasons and as long as investors have the information needed to form a reasoned judgment on the company and on the shares for which admission to official listing is sought.

3. Sufficient distribution shall be deemed to exist when the shares that are object of the application for admission to listing are distributed among the public in a percentage of no less than 10% (ten percent) of the subscribed capital and represented by that class of shares or, failing that, a number of no less than 50,000 (fifty thousand) shares.

4. The Government shall promote the conditions necessary for admission to listing of the shares of smaller commercial companies.

**Article 117**

**Admission to listing of bonds**

1. The provisions of sub-paragraphs a), b) d) e), g) and h) of sub-articles 1 and 2 of the preceding Article shall be applied to the admission to listing of bonds apply, mutatis mutandis:

2. The admission to listing of bonds shall also depend cumulatively of the fulfilment of the following conditions:

   a) the amount of the bond to be admitted shall not be less than 20,000,000$00 (twenty million escudos);
b) proof shall be provided that the payment of the capital and interest is reasonably assured.

3. Convertible bonds and bonds or other securities granting the right to the subscription or purchase of shares may only be admitted to listing if the shares to which they refer have already previously been admitted to listing or are admitted there simultaneously.

4. Admission to listing may be authorised without fulfilment of the provision of the preceding sub-article, provided that the stock exchange considers that the holders of the bonds have all the information necessary to form a correct judgment about the value of the shares relating to these bonds.

Article 118

Material representation of foreign securities

1. The securities issued by non-national entities that are subject to a material representation shall be in accordance with the rules in force in the country of issue.

2. If the material representation is not in accordance with the national rules in force, the stock exchange shall make this fact known to the public prior to admission.

Article 119

Admission to listing of foreign securities

1. The securities issued by foreign entities that are not public funds or equivalent may only be admitted to listing if all of the conditions required for admission to listing of national securities of an identical nature are met.

2. The stock exchange may also require that the securities to be admitted to listing are already listed on the stock exchange of the country of statutory seat or of the principal place of business of the issuer or of the country where these securities were issued.

Article 120

Admission to listing of new securities

1. Entities with securities admitted to listing shall apply for the admission to listing of all new securities of the same nature and class issued within 120
(one hundred and twenty) days from the date of full release of the securities or when they become freely negotiable, if sooner.

2. In the case of certificated securities, the delivery of definitive certificates shall be made within the time specified in the preceding sub-article, when another period is not fixed by special law.

3. Shares of the same class that form part of lots intended to keep control of the company or that are not traded during a specified period by virtue of special agreements may be exempted from admission to listing by the stock exchange, without prejudice to informing the public of these facts and there being no risk of harming the holders of the shares for which admission is requested.

4. For purposes of this Code, in the case of shares, release shall mean the date of execution of the deed and, in the case of bonds, the last day of subscription.

**Article 121**

**Unofficial listing**

1. The listing of shares and bonds may be determined by the AGMVM provided that it is of relevant public interest.

2. The listing referred to in the preceding paragraph shall be without prejudice to the prior hearing of the issuer and the stock exchange.

3. The issuer shall provide the stock exchange with all documents and information it may request in order to ensure the availability in the stock exchange of an equivalent process to that organised pursuant to sub-article 2 of the following Article.

**Article 122**

**Applications for admission to listing**

1. Admission to listing shall be requested through a trader, the issuer or holders of the securities to be traded that hold at least 10% (ten percent) of these securities.

2. The rules to be observed in the instruction, conduct and decision of applications for admission to listing shall be set in the stock exchange circular.
**Article 123**

**Competence for admission to listing**

The admission of any securities to listing on the stock exchange, as well as the suspension, exclusion and readmission of securities suspended or excluded shall fall under the responsibility of the stock exchange.

**Article 124**

**Notifications**

1. Decisions about the admission process shall be notified to applicants within 30 (thirty) days of receipt of the application or, should the stock exchange request additional information, within 30 (thirty) days of receipt of such information.

2. The lack of communication of the decision on the application for admission within the period prescribed in the preceding paragraph shall be regarded as tacit approval of the request, in which case the stock exchange shall be obliged to take the steps necessary to implement the admission.

3. The decisions of suspension and exclusion shall be communicated to issuers on the same day they are taken.

**Article 125**

**Prospectus**

1. The admission of securities to trading on the official listed market shall be subject to the publication by the issuer of a prospectus approved by the stock exchange as part of the admission process.

2. The prospectus shall be published as follows:

   a) through the insertion of its full text in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system; or

   b) by making available a brochure containing the contents of the prospectus to the public on the stock exchange and in the establishments of stock exchange operators, publishing a notice in the official bulletin of the stock exchange and on the AGMVM’s information disclosure system stating that the prospectus was made available through this form.
3. The publication of the prospectus by any of the forms provided in the preceding sub-article shall take place up to 8 (eight) days before the date of the commencement of trading.

4. The members of the administrative, management and supervisory board or related entity of the issuer shall be responsible for the adequacy, objectivity, accuracy and timeliness of information in the prospectus.

5. The following shall not be dependent on the publication of a prospectus for the admission to listing:

   a) national and foreign public funds and securities equivalent to them;

   b) securities arising out of capital increases by incorporation of reserves issued by a company that already owns shares of the same class admitted to listing, or shares granted free of charge to holders of shares of the same entity already listed on the stock exchange;

   c) shares resulting from the conversion of convertible bonds or the exercise of the right to subscription or acquisition of shares by the holders of bonds or other securities granting said right, provided that the shares previously issued by the same company are already listed on same stock exchange;

   d) shares issued in lieu of others of the same company, already listed on the same stock exchange, provided that the issuance of new shares does not involve a capital increase.

6. The stock exchange shall establish the content of the prospectus by circular as well as any other rules necessary to the implementation of the provisions of this Article.

**Article 126**

**Publication of admission, exclusion, suspension and readmission to listing**

The admission, suspension, exclusion and readmission of any securities shall be made public through a notice to be published by the stock exchange in the official bulletin of the stock exchange, at the expense of the issuer, and in the AGMVM’s information disclosure system.
Article 127

Admission, readmission and maintenance fees

1. Fees shall be due for the admission to listing as well as the readmission of securities excluded, with the exception of national and foreign public funds and equivalent securities. These fees shall be fixed by regulation of the AGMVM on the nominal value of the capital to be admitted or readmitted.

2. Entities with securities admitted to listing on the stock exchange, with the exception of the issuers of national and foreign public funds and equivalent securities shall pay a regular maintenance fee on such securities, to be fixed in the regulation of the AGMVM referred to in the preceding sub-article.

Division II

Bonds of entities with securities admitted to trading on the official listed market

Article 128

General information to the stock exchange

1. Entities with securities admitted to listing shall notify the stock exchange as soon as possible of the following facts:

   a) a draft statutory change, up to the date of convening the General Assembly to approve the proposed amendment and its approval;

   b) a filing for bankruptcy or, from the date on which the fact becomes known, the application for a declaration of bankruptcy filed against it, as well as the respective judgment;

   c) the admission to listing on a foreign stock exchange of any securities issued by the entity;

   d) the report, balance sheet and accounts of the Board of Directors, accompanied by the opinion of the Audit Committee and certification by an independent auditor within a maximum of 30 (thirty) days of its approval by the General Assembly; and

   e) any other information that the stock exchange may request or establish by circular letter.

2. The information shall be accompanied by statements from each of the
persons responsible, whose names and functions shall be clearly indicated, where they declare that, to the best of their knowledge, the information provided in sub-paragraph d) was prepared in accordance with applicable accounting standards, giving a truthful and appropriate image of the assets and liabilities, financial situation and financial results of the issuer and of the companies included in the scope of consolidation, when appropriate, and that the management report faithfully describes the development of the business, the performance and position of the issuer and of the companies included in the scope of consolidation and contains a description of the principal risks and uncertainties they face.

**Article 129**

**General information to the market**

1. Entities with securities admitted to listing shall publish in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system:

   a) the annual reports and accounts, together with the opinion and certification required in sub-paragraph d) of sub-article 1 of the preceding Article, within 30 (thirty) days of its approval by the General Assembly;

   b) the composition of the administrative and supervisory entities and amendments thereto.

2. If the company prepares simultaneously own and consolidated annual accounts, it shall make both available to the public.

3. The stock exchange may authorise the company to publish only the own or consolidated accounts when it considers that the accounts that were not published do not contain any significant additional information.

4. The provision in sub-article 2 of the previous Article shall apply.

**Article 130**

**Information to be provided to the market by companies with listed shares**

1. The companies with shares admitted to listing shall publish, as soon as possible, in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system announcements on the following facts:

   a) any change to the rights attaching to different classes of shares;
b) significant changes to the structure of the shareholdings;

c) new developments in the scope of its activity that are not generally known and which may, as a result of the impact on the assets and liabilities of the company or on its normal course of business, lead to substantial movements in the share price.

2. There shall be a significant change in the structure of the shareholdings whenever any public or private natural or legal person, directly or through intermediaries, acquires or disposes of shares in such a way that, with this acquisition or disposal, the limits of 10% (ten percent), 20% (twenty percent), a third, 50% (fifty percent) or two thirds of the voting rights corresponding to the capital are exceeded.

3. With regard to sub-paragraph c) of sub-article 1, the stock exchange may exempt the company from this obligation if the disclosure of certain information is liable to prejudice the legitimate interest of the company.

Article 131

Annual information on corporate governance

1. Issuers of shares admitted to listing in the stock exchange shall disclose, as a chapter of their annual management report specifically drawn up for said purpose or as an appendix, a detailed report on the corporate governance structure and practices:

a) the structure of their capital, including shares which are not admitted to trading, with an indication of the different classes of shares, the rights and obligations attaching to each class and the percentage of share capital that each class represents;

b) any restrictions on the transfer of shares, such as clauses on consent for disposal, or restrictions on the ownership of shares;

c) the qualifying holdings in the company’s share capital;

d) the identification of any shareholders that hold special rights and a description of such rights;

e) the control mechanisms of any employee share scheme where the voting rights are not exercised directly by the employees;
f) any restrictions on voting rights, such as limitations on exercising the voting rights of holders of a given percentage or number of shares, deadlines for exercising voting rights, or systems whereby the financial rights attaching to securities are separated from the holding of securities;

g) shareholder agreements which are known to the company and may result in restrictions on the transfer of securities or voting rights;

h) any rules governing the appointment and replacement of board members and amendment of the company bylaws;

i) the powers of the board, notably in respect of resolutions to increase equity;

j) any significant agreements to which the company is a party and which take effect, alter or terminate upon a change of control of the company following a takeover bid, as well as the effects thereof, except where their nature is such that their disclosure would be seriously prejudicial to the company; this exception shall not apply where the company is specifically obliged to disclose such information on the basis of other legal requirements;

k) any agreements between the company and its board members or employees providing for compensation if they resign or are made redundant without valid reason or if their employment ceases because of a takeover bid;

l) the internal control and risk management systems implemented in the company.

2. The board of issuers of shares admitted to listing shall submit to the shareholders’ meetings an annual report explaining the matters referred to in sub-article 1.

Article 132

Information provided to the market by entities with listed bonds

1. Entities with listed bonds shall publish as soon as possible in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system announcements on the following facts:

a) any change in the rights of bondholders resulting from changes in loan terms or interest rate;
b) new developments in their activity which are not generally known and which may significantly affect their ability to fulfil their commitments;

c) the convening of bondholders’ meetings and appointment of its representative;

d) any change in the rights attaching to different classes of shares referred to in convertible bonds.

2. With regard to sub-paragraph b) above, the stock market may relieve the issuer of this obligation if its disclosure is likely to prejudice the legitimate interests of that entity.

Article 133

Other general information

1. Domestic or foreign issuers with securities admitted to listing on the official listed market shall be obliged to advertise the following facts:

a) the issuance of new shares or capital reduction;

b) new issues of bonds and related securities;

c) the allocation and payment of dividends or other income to shareholders;

d) the exercise of subscription or incorporation rights;

e) conversion operations;

f) the payment of interest or premiums or redemption of bonds and other debt securities;

g) the date and place of the drawing of bonds by lots;

h) results of the drawing.

2. The advertisements referred to in the preceding sub-article shall be made:

a) up to 30 (thirty) days from the date of conclusion of their writing, for the facts referred to in sub-paragraph a);

b) up to 30 (thirty) days from the date of such determination by the competent bodies for the facts set out in sub-paragraph b);

c) up to 2 (two) business days after its completion, for the fact mentioned in sub-paragraph h);
at least 15 (fifteen) days in advance for the facts referred to in sub-paragraphs
c) to g).

3. The advertisements referred to in this Article shall be made in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system, without prejudice to other forms of disclosure provided for in laws or statutes.

**Article 134**

**Inside information**

1. Issuers which have securities admitted to listing or have requested their admission to listing shall promptly disclose:

   a) All and any information that directly concerns them or the securities issued by them which is of a precise nature and has not been made public and, if it were made public, would be likely to have a significant effect on the prices of such securities, their underlying instruments or related derivatives; and

   b) any significant changes concerning information publicly disclosed in the terms of the preceding paragraph, through the same channel as that used for public disclosure of the original information.

2. For the purposes of this law, inside information covers a set of circumstances which exists or may reasonably be expected to come into existence, regardless of its degree of materialisation, which a reasonable investor would be likely to entirely or partially use, should he have knowledge of them, as a basis for his investment decisions, since it would be likely to have a significant effect on the prices of securities or financial instruments.

3. Without prejudice to possible criminal liability, any natural person or entity that holds information with the characteristics referred to in sub-paragraphs 1 and 2 shall be prohibited from disclosing such information to any other person before the same is publicly disclosed.

4. Issuers and persons acting on their behalf or on their account, shall draw up and regularly update a list of those persons working for them, under an employment contract or otherwise, who have regular or occasional access to inside information, and shall inform these persons that their names have been included in said list and of the legal consequences attaching to misuse or improper circulation of such information.
5. The list contemplated in the preceding paragraph shall contain the identity of the persons, the reasons why such persons are on the list, the date on which the list of insiders was created and updated, and be kept by issuers for at least 5 (five) years after being drawn up or updated and, further, be immediately sent to the AGMVM whenever requested by the latter.

6. The AGMVM may establish by regulation the means of disclosure of the information referred to in this Article.

**Article 135**

**Delayed disclosure of information**

1. The issuers referred to in no. 1 of the preceding Article may delay the public disclosure of the information referred to therein, if, cumulatively:

   a) immediate disclosure would be likely to prejudice their legitimate interests;

   b) such delay is not likely to mislead the public; and

   c) the issuer demonstrates that the confidentiality of such information is ensured.

2. Disclosure of inside information is likely to prejudice the legitimate interests of the issuer notably in the following circumstances:

   a) decisions taken or contracts made by the management body of an issuer which need the approval of another body of the issuer in order to become effective, provided that public disclosure of the information before such approval, even if made together with the simultaneous announcement that this approval is still pending, would jeopardise the correct assessment of the information by the public;

   b) negotiations in course, or related elements, where the outcome or normal pattern of those negotiations would be likely to be affected by public disclosure.

3. In the event that the financial viability of the issuer is in danger and provided that the issuer is not bankrupt, public disclosure of information may be delayed for a limited period where such public disclosure would seriously jeopardise the interests of existing and potential shareholders by undermining the conclusion of specific negotiations designed to ensure the financial recovery of the issuer.
4. In order to ensure the confidentiality of the information whose disclosure is delayed and to prevent any misuse thereof, the issuer shall take at least the following measures:

a) restrict access to such information only to persons who require it for the exercise of their functions;

b) make sure that any person with access to such information acknowledges the inside nature of the information, the duties and prohibitions resulting from such knowledge and is aware of the sanctions attaching to the misuse or improper circulation of such information;

c) has measures in place which allow immediate public disclosure in case of breach of confidentiality.

5. If an issuer or a person acting on its behalf or on its account transmits, in the normal course of their business, profession or duties, inside information to a third party not subject to a duty of secrecy, such information shall simultaneously be made public, if its communication was intentional, or immediately, if its communication was unintentional.

**Article 136**

**Notification of transactions**

1. Persons discharging managerial responsibilities within an issuer of securities admitted to trading in regulated markets or a company controlling such issuer, as well as any persons closely associated with them, shall notify the AGMVM, within 5 (five) business days, of any transactions made on their own account, for the account of third parties or by third parties on their account in respect of the shares of the relevant issuer or financial instruments related thereto.

2. The notification contemplated in the preceding paragraph shall indicate the following in respect of the transaction:

a) its nature;

b) the date;

c) the place;

d) the price;
e) the amount;

f) the issuer;

g) the financial instrument in question;

h) the reason for the communication obligation;

i) the amount of shares in the issuer that the person discharging managerial responsibilities holds after the transaction.

3. For the purposes of the provisions of sub-article 1, a person discharging managerial responsibilities shall mean any person who is a member of the management or supervisory bodies of the issuer and a senior executive who is not a member of the aforementioned bodies, having regular access to inside information and participating in decisions affecting the issuer’s management and negotiation strategy.

4. For the purposes of the provisions of sub-article 1, a person closely associated with a person discharging managerial responsibilities shall mean:

a) the spouse of a person discharging managerial responsibilities, or any partner of that person considered by national law as equivalent to the spouse, dependent children and other relatives who have shared the same household as that person for at least one year; and

b) any legal person that is directly or indirectly controlled by such person, or that is set up for the benefit of such person, or in which such person also discharges managerial duties.

Article 137

Civil liability

Civil liability for the contents of information disclosed in accordance with the previous articles shall apply, with the necessary adaptations, to the provisions regarding responsibility for the prospectus.
Division III
Suspension and exclusion from the official listed market

Article 138
Suspension from listing

1. The following shall be suspended from listing:
   
   a) securities in relation to which circumstances occurred that would have
      prevented their admission to listing, had they existed on this date;
   
   b) bonds and other fixed income securities whose principal and interest are
      no longer paid in 2 (two) consecutive maturities, unless there is agreement
      between the parties;
   
   c) securities whose limited amount of trading prevents the operation of a
      regular market;
   
   d) securities whose prices show abnormal movements or which may
      temporarily or permanently affect the regular operation of the market;
   
   e) securities in relation to which other facts are verified that the stock
      exchange, may establish by circular.

2. In decisions to suspend listing, when applicable a period shall be fixed within
   which the company must remedy the situation that led to said decision,
   under penalty of the securities in question being excluded from listing.

Article 139
Delisting

The following securities shall be excluded from listing definitely:

   a) those substituted by others, by conversion, of the same or of a different
      entity;
   
   b) those that for any reason should be considered extinct;
   
   c) those issued by companies who have been declared bankrupt;
   
   d) those whose listing has been suspended and the fact causing it has not been
      remedied within the time limit established for this purpose in the decision
      to suspend the listing;
e) those in relation to which the stock exchange considers that, due to special circumstances explained in a notice published in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system, a normal and regular market cannot be maintained.

**Article 140**

**Cessation of the suspension from listing**

1. The suspension from listing shall cease as soon as:
   
a) the deadline that was established for the regularisation of the situation that gave rise to the suspension has ended;

b) all of the conditions provided for that purpose in the decision that decreed the suspension have been met;

c) the facts that determined the suspension have ceased.

2. The cessation of the suspension shall be automatic in the cases of sub-paragraph a) above and may be requested by any interested parties or determined unofficially by the stock exchange in the case of sub-paragraphs b) and c).

**Article 141**

**Readmission to listing of excluded securities**

1. If the facts which led to the exclusion from listing of any securities cease to occur, the issuer may apply for readmission to listing.

2. For the purposes of this Code, the application for readmission to listing shall be considered as a new application for admission; however, it will not be necessary to submit any documents that already form part of the process of the previous admission and which are up to date.

**Sub-section III**

**Stock market sessions**

**Article 142**

**Definition**

1. Stock market session shall mean the period of operation of the stock exchange, during which operations can be carried out on financial instruments.
2. The trading sessions may be normal or special.

**Article 143**  
**Presidency and supervision**

1. The stock exchange sessions shall be presided over and supervised by the stock exchange under the terms which are set forth in its internal regulation.

2. The provision of the preceding sub-article does not preclude the exercise of the supervisory powers assigned to the AGMVM, in which case the stock exchange shall provide it with all the means necessary to perform these duties.

**Article 144**  
**Public character**

1. Stock exchange sessions are public and may be watched by any and all persons who are not covered by sub-article 3.

2. The option referred to in the preceding sub-article shall only comprise public access to areas especially reserved for this purpose; the persons present are prevented from making any contact with those who are on the trading floor or from carrying out any acts that may disturb them in the exercise of their duties.

3. The following persons may not enter the stock exchange:

   a) minors, unless accompanied by their legal representatives or in the case study visits;

   b) those banned and considered disqualified under civil law;

   c) persons carrying weapons, except in the case of law enforcement agents required by the stock exchange or in the exercise of their duties;

   d) those who are in a state of drunkenness or reveal abnormalities of any kind that may disrupt the sessions;

   e) any persons who have been sanctioned for disciplinary, criminal or administrative offenses, provided that the prohibition of access to the stock exchange is expressly indicated in the respective decision.

4. The services of the stock exchange shall order the immediate removal of
any persons who are in one of the situations described in the preceding sub-article or who violate the ordinances regulating the operation of the stock exchange or who disturb the order of the sessions and shall seek the assistance of the police when circumstances so require.

Article 145
Access to the trading floor

Only the following persons may enter the trading floor:

a) employees of the stock exchange who carry out their duties on the trading floor;

b) representatives of stock exchange operators;

c) any other persons whose occasional access is authorised by the stock exchange, provided that they are not covered by any of the impediments mentioned in sub-article 3 of the preceding Article.

Article 146
Normal sessions

1. Normal stock exchange sessions are destined for the current transaction of securities admitted to listing or trading on the exchange.

2. The weekly number of normal sessions as well as their timetable shall be established in the stock exchange circular.

3. Lots of securities in excess of the ceiling established in a circular of the stock exchange may not be traded and operations on lots below the minimum limit set in the same circular shall not be considered in the fixing of the prices and may be subject to specific rules established for that purpose.

Article 147
Special sessions

1. The stock exchange may organise special sessions for:

a) the trading of securities that are not listed on any stock market where the volume of the securities in question or the way in which they should be traded so warrant;
b) the calculation of the results of takeover bids or public offers for sale of securities;

c) the trading of lots of securities admitted to trading on the stock exchange, where they exceed the upper limit referred to in sub-article 3 of Article 146.

2. Applications to hold the sessions provided for in this Article shall be made through the stock exchange operators by the issuers of the securities to be traded, by those who have ownership of them or by anyone interested in the operation to be carried out, always specifying the nature and quantity of the securities and the fixed or minimum price established for that purpose.

3. The stock exchange may require the applicant stock broker to provide the information it deems necessary for consideration of the application.

4. The authorised sessions shall be announced at least 8 (eight) days before in the official bulletin of the stock exchange and in the AGMVM’s information disclosure system.

5. The operations referred to in this article shall always be made through stock exchange operators and in the spot market and their results shall be published under the heading “Operations carried out in a special session” in the official bulletin of the stock exchange on the same day on which the session took place.

6. The rules to be observed for the trading of securities in a special session and the contents of the notice referred to in sub-article 4 shall be set in a stock exchange circular.

**Article 148**

*Judicial sale of securities*

1. The judicial sale of securities shall always take place in the stock exchange through a stock exchange operator:

   a) in a normal session of the stock exchange in the case of securities admitted to trading and if the lots to be traded do not exceed the maximum limit referred to in sub-article 3 of Article 146; and

   b) in a special session pursuant to and in compliance with the provisions of the preceding Article in other cases.
2. The sale shall be made according to the instructions of the respective order for the sale of the securities and shall indicate the nature, class and number of securities to be sold, the stock exchange operator in charge of implementing the sale and, in the case provided for in sub-paragraph b) above, the minimum price to be fixed for this purpose.

3. The costs imposed on the seller of securities on the stock exchange shall be borne by the stock exchange operator in charge of the sale, who shall provide the account of such costs to the court, to be repaid in the final account of the process under which the sale was held.

4. The operations carried out under this Article shall be reported in a specific book and the records shall be signed by the competent body of the stock exchange and by the stock exchange operators involved, a copy of which shall be sent to the authority which ordered the sales.

Sub-section IV
Stock exchange operations
Division I
General provisions
Article 149
Concept

For the purposes of this Code, stock exchange operations shall be considered to be:

a) the buying and selling in normal stock exchange sessions of securities admitted to trading on any market referred to in Article 112;

b) the trading of any other securities in special stock exchange sessions.

Article 150
Who may carry out stock exchange operations

1. Stock exchange operations shall be necessarily carried out by stock exchange operators.

2. The activities to be carried out by stock exchange operations in the stock exchange may only be exercised by members of their board of directors, directors or other authorised representatives who are duly registered for that purpose in the special register organised by the stock exchange.
3. The stock market shall only register persons of good repute and with appropriate qualifications to carry out the intended activities, pursuant to a circular of the stock exchange, which shall also establish the registration and cancellation conditions and requirements of the registers.

Article 151
Implementation fees of stock exchange operations
Fees to be determined in the AGMVM’s regulation shall be payable for all stock exchange operations carried out.

Article 152
Brokerage
Stock exchange operators shall be entitled to the brokerage fees established in the same manner as in the previous Article for providing the services entrusted to them.

Article 153
Subjects of the pecuniary obligations inherent in the operations
All taxes and fees relating to the operations carried out on the stock exchange by stock exchange operators shall be on the account of their principals.

Article 154
Risk of the operations
Unless otherwise expressly stipulated, the ownership and risk of the rights and obligations inherent in the securities traded shall pass to the buyer from the moment the stock exchange operation takes place.

Division II
Object of the operations
Article 155
Securities that may be traded on the stock exchange
1. Without prejudice to the provisions in Articles 147 and 148, only the following securities may be subject to stock exchange operations:

a) financial instruments admitted to trading;
b) any other securities which have been authorised to be traded in the stock exchange by law or ordinance of the Finance Minister.

2. Without prejudice to the provision in Article 148, only securities that are fully paid and free of liens or encumbrances as well as of any limitations or obligations regarding pecuniary and social rights attaching thereto or to their transmissibility may be traded in stock exchange.

Article 156

Obligation to trade on the stock exchange

1. The trading through the stock exchange of the securities admitted to trading on it shall be mandatory.

2. Exceptionally, when circumstances so require, the AGMVM may authorise by regulation that a security admitted to trading on the stock exchange does not have to be mandatorily traded in that market.

Article 157

Operations with irregular securities

1. Securities that have deteriorated, depreciated or any other securities that are not able to grant their buyers the corresponding rights may not be traded on the stock exchange.

2. Whenever a stock exchange operator delivers to his principal securities considered irregular, in particular because they have depreciated, deteriorated or without the corresponding coupons, besides incurring in the liability to disciplinary action, these securities shall be replaced by others with appropriate conditions, with no additional costs to the principal.

Division III

Types of operations

Article 158

General provision

1. Only spot operations, or others that are authorised through an ordinance of the Finance Minister, may be carried out in the stock exchange.

2. Spot operations are those in which the mutual obligations of the parties, consisting in the delivery of the respective securities and in the payment of the
respective price, become irrevocable with the completion of the operation and shall be complied with within a maximum term and in accordance with the rules laid down by the stock exchange in the circular referred to in Article 173.

Division IV
Stock exchange orders

Article 159
Definition and general principles

1. Orders relating to the buying and selling of securities in the stock exchange are called stock exchange orders and may be given by the interested parties:
   
   a) in any case, directly to the stock exchange operator who shall execute them, regardless of whether they are purchase or sales orders;
   
   b) in the case of purchase orders of certificated securities, any financial intermediary legally authorised to receive securities from the public for safekeeping and administration;
   
   c) in the case of purchase orders of book entry securities, any financial intermediary authorised to provide the registration service of such securities;
   
   d) in the case of sell orders, to the financial intermediaries in charge of the accounts in which the securities object of the orders are deposited or registered.

2. Only stock exchange operators may execute stock exchange orders so in the cases of sub-paragraphs b), c) and d) above, financial intermediaries shall immediately transmit the stock exchange orders they receive to those who shall execute them.

Article 160
Standards to be met by the principals

1. Only securities that are integrated in the deposit scheme set out in Article 73 and which the principal is entitled to hold on the date of the respective stock exchange order may be sold in spot operations.

2. For the purposes of compliance with the provisions of the preceding sub-article, stock exchange operators may not execute any order of sale without
the principal delivering to them for deposit the securities to be traded or indicating the financial intermediary with which they are deposited or registered, and confirming the availability of these securities and that they are blocked for trading.

3. Stock exchange operators may not execute any purchase order without receiving from the principal the probable amount for the payment of the purchase ordered.

4. Failure by the principal to comply with the provision of the preceding paragraphs shall exempt the stock exchange operator from the obligation to fulfil the order.

5. The stock exchange operator to whom an order is transmitted in compliance with the provisions of this Article may not be exempted from its fulfilment, without prejudice, in the case of sales orders, of it lawfully taking the steps deemed reasonably necessary to assess the authenticity and availability of the securities to be sold prior to the execution of the order.

6. Exceptions to the provisions of sub-articles 2 and 3, but without prejudice to compliance with the provisions in sub-article 1, shall be the orders transmitted directly to stock exchange operators by financial intermediaries, pursuant to sub-article 2 of the preceding Article.

Article 161

**Form, content and modalities of stock exchange orders**

The form, content and modalities of stock exchange orders shall be established in a circular of the stock exchange.

Article 162

**Execution of stock exchange orders**

1. Stock exchange orders shall be executed by the stock exchange operator with the greatest care and with strict observance of its priority and ordering instructions.

2. Without prejudice to the provisions in sub-article 5 of Article 160, the priority of stock exchange orders for the purposes of the preceding sub-article shall be that resulting from its sequence number received by the stock exchange operator, unless the very conditions established by the originator require its
implementation at a later date which corresponds to that according to the numbering indicated or expressly give the stock exchange operator wholly or partly discretionary powers to make it when it deems convenient, subject to the priority of other originators.

Sub-section V
Quotation and trading

Article 163
Definition and general principles

1. Quote is the price at which the values shall be traded on the official listed market, provided that it is based on an amount equal to or higher than the minimum lot.

2. The price shall be established in the market system, in terms that will appear in the circular of the stock exchange in order to ensure adequate pricing, transparency of the operations and that as many securities as possible are traded.

3. The circular mentioned in the preceding sub-article shall also describe one or more usable trading systems and their rules.

4. The price of any security traded on the stock exchange shall be formed independently of dividends, interest and other income that are overdue.

5. Interest and other payments of a similar nature, corresponding to the period that elapses between the last maturity date and the date of the financial settlement of the operation in question, shall be paid by the buyer to the seller for the purchase price.

Article 164
Public and legal price of listed shares

1. The last quotation made in the official listed market, appearing in the stock exchange’s official bulletin, shall be the public and legal price of the respective securities.

2. On the unlisted market the prices formed shall not be considered as a quotation for any legal effect.
Sub-section VI
Registration of operations and official bulletin of the stock exchange

Article 165
Registration of operations in normal sessions

1. At the end of each operation held in a normal stock exchange session, the selling stock exchange operator shall prepare and sign in triplicate the standard model of the operation registration note provided by the stock exchange, indicating the date, the security traded, the quantity traded, the quotation or price carried out and the financial intermediary involved in the transaction, which shall then be signed by the buying stock exchange operator.

2. The original of the note referred to in the preceding sub-article shall be for the selling stock exchange operator, the duplicate for the buying stock exchange operator and the triplicate for the stock exchange.

3. According to the trading system used, the note referred to in this Article shall be produced electronically by the stock exchange, without prejudice to the observance of that established in the previous sub-article, with the necessary adaptations.

Article 166
Minutes of special sessions

1. At the end of each special session, the stock exchange shall draw up the minutes, which shall include:

   a) the nature and class of the securities traded in the session;

   b) the quantity traded by each stock exchange operator;

   c) the prices practised;

   d) any other information deemed appropriate by the stock exchange.

2. The minutes shall be signed by the competent body of the stock exchange and by the stock exchange operators involved.
Article 167

Official bulletin of the stock exchange

1. Every day, the stock exchange shall prepare the stock exchange’s official bulletin.

2. On days on which there is a trading session, the stock exchange’s official bulletin shall mention all securities admitted to listing or trading on the stock exchange, dividing them into special sections for each one of the stock markets and indicating:

a) the name of the issuer;

b) in the case of shares, their nominal value, the amount admitted to trading, the amount of the dividend or other consideration given to each share and the date on which the last distribution took place;

c) in the case of bonds and other securities representing debt, their nominal value, the return amount, the daily interest, the year of issue, the interest maturity dates and the amortisation period;

d) in the case of other securities, and according to their characteristics and special conditions of issuance or negotiation, information corresponding to those mentioned in sub-paragraphs b) and c).

3. On days on which there is a trading session and, in relation to each of the securities that during the trading session were traded, or the object of bid or ask proposals albeit no trades were made, the official bulletin shall also indicate:

a) the quotations or prices made;

b) the best bid and ask proposals made and not met;

c) the quantities traded.

4. If more than one price was made on the same security, the official bulletin shall also list the first and last quotation made and, if there were more than two, the highest and lowest that were made.

5. The stock exchange may also publish in its official bulletin other information relating to the characteristics of the securities admitted to trading and to the
operations carried out, which are considered important for the clarification of the market.

6. Besides the provisions of the preceding paragraphs and other provisions of this Code and its regulations, in general or special legislation, the following shall also be published in the stock exchange’s official bulletin:

a) the admission or dismissal of stock exchange operators;

b) the composition and alteration of the governing bodies of stock exchange operators;

c) the admission of any persons to the registration referred to in sub-article 2 of Article 150 and the cancellation of such registration;

d) the disciplinary sanctions imposed on the persons and entities referred to in the preceding paragraphs, when they should be disclosed in accordance with their judgment;

e) everything else that is determined by the Finance Minister, by the Auditor-General of Securities Market or by the stock exchange, within their respective jurisdiction, so as to ensure the protection of investors and a regular, efficient and transparent market.

7. The request of issuers, financial intermediaries or judicial or police authorities, the description of any certificated securities that have been lost or misplaced or that have been subject to theft, fraud, embezzlement or forgery, as well as news of the cessation of any of these situations or extinction of criminal liability shall be freely published in the stock exchange’s official bulletin and in the AGMVM’s information disclosure system.

Article 168

Publication of other quotes or prices

It shall be forbidden to advertise and edit bulletins or notes concerning securities traded on the stock exchange, with quotations or prices other than those listed in the official bulletin of the stock exchange.
Sub-section VII
Processing and communication of operations

Article 169
Conservation of supporting documents

1. Stock exchange operators shall keep on file for a minimum period of five years buy and sell orders received, the registration notes of the operations carried out and the duplicates of buy or sell notes issued.

2. The stock exchange shall keep on file for the period referred to in the preceding sub-article the triplicates of all registration notes of the operations carried out and of the buy or sell notes issued.

Article 170
Processing and communication

1. For every stock exchange order made, the stock exchange operator shall, by the end of the subsequent business day, issue a document called a buy or sell note, whose form and content shall be determined by the stock exchange by circular.

2. The buy or sell notes shall be made in triplicate, as follows:
   
a) the original shall be for the principal;

   b) the duplicate shall mandatorily be filed by the stock exchange operator, for the purposes set out in sub-article 1 of the preceding Article;

   c) the triplicate shall be for the stock exchange, for the purposes set out in sub-article 2 of the preceding Article.

3. Stock exchange operators shall inform their principals of the operations they have been ordered via the document referred to in the preceding paragraphs, without prejudice to their being able to do so in advance by the most expeditious means at their disposal.

4. The triplicate intended for the stock exchange shall be delivered to the exchange on the business day following its issuance.

5. The notes referred to in the preceding paragraphs may be drawn up and completed electronically, without prejudice to their authentication by the stock exchange operator.
6. Stock exchange operators shall also, within the period of time established in sub-article 1, report the operations carried out to financial intermediaries in which the securities sold are deposited or registered and if said securities were blocked for the transaction, or in which the securities bought are to be deposited or registered, in accordance with the instructions from the principal.

7. The reporting requirement referred to in the preceding sub-article shall contain all the information and be accompanied by all legal and regulatory data necessary so as to enable financial intermediaries to make the appropriate entries in the account of the originators during the settlement of the operations, as well as, in the case securities bought, in accordance with their nature and, if appropriate, open an account in the name of the originators to deposit certified securities or to register book entry securities.

### Article 171

**Complaints for non-compliance with stock exchange orders**

1. Should stock exchange operators fail to comply with a stock exchange order or comply with it under conditions different from those laid down by the principal in the order itself or in written instructions attached thereto, the principal shall submit a complaint to the AGMVM within ten business days after becoming aware of the fact, under penalty of not being able to do so later on, except by court order obtained for this purpose.

2. If the AGMVM, after hearing the stock exchange, considers that the non-compliance of the order or its defective compliance derives from a fact attributable to the stock exchange operator, the AGMVM shall, after hearing the principal and if necessary, through the partial or total execution of the total collateral referred to in Article 61, order:

   a) the stock exchange operator to buy or sell the securities in question, with the principal paying or receiving the amount of the operation more favourable to him of the difference between that which would correspond to the punctual compliance of the order and that effectively carried out;

   b) the stock exchange operator to compensate the principal for the differences between the amount that would correspond to the punctual compliance of the order and that resulting from the operation effectively carried out;
c) the order or operation in question to be aborted with the return to the principal of all amounts collected in the meantime, plus interest at the statutory rate or the repayment of the securities offered for sale, as the case may be.

Sub-section VIII

Settlement of operations

Article 172

Concept

1. The settlement of a stock exchange operation shall be the delivery or placement of the securities involved at the disposal of the buyer, called the physical settlement, and the payment to the seller of the respective price, called the financial settlement.

2. The concept of settlement can also include the compliance with other obligations directly resulting from the operation carried.

Article 173

Clearing and settlement of stock exchange operations

1. The stock exchange shall organise under its direction a system for the clearing and settlement of stock exchange operations, the rules of which shall be defined by circular.

2. The rules mentioned in the preceding sub-article shall lay down the execution of repurchases to occur as a result of failures in the physical settlement, and shall also provide for the possibility of financial reversal, when failures in financial settlement occur, in which case those entities that do not deliver the securities on time or do not make the payments due shall be liable for the damages caused.

CHAPTER III

OTC market

Article 174

Negotiable securities

Notwithstanding the provisions of sub-article 2 of Article 156, financial instruments not admitted to trading on the stock exchange shall be negotiable on the OTC market.
Article 175

Limitations to the activity of financial intermediaries

Where transactions are allowed on the OTC market of securities admitted to trading, the Finance Minister may, by Ordinance and on a proposal or after a prior hearing of the AGMVM, prohibit, restrict or condition said transactions, on own account or on the account of others, by stock exchange operators.

Article 176

Buy and sell orders

1. The arrangements applicable to stock exchange orders shall apply mutatis mutandis to orders for the trading of securities in the OTC market.

2. Financial intermediaries authorised to operate in the OTC market may only receive and execute sell orders of securities that are registered or deposited in accounts opened with them by the originators.

3. Buy and sell orders of securities transmitted to any financial intermediaries in respect of securities admitted to trading on the stock exchange, negotiable in the OTC market under the provisions of sub-article 2 of Article 156, may only be carried out in the latter when determined or authorised by the originator in writing, in the order itself or in an independent instruction signed by the originator, which shall be filed by the financial intermediary.

Article 177

Execution of orders

In compliance with orders received to buy or sell securities in the OTC market, in strict compliance with the ethical standards that are required of them as well as the relevant provisions of this Code and other laws and regulations by which they are governed, financial intermediaries shall:

a) establish and maintain among themselves the necessary contacts in order to, by means of the maximum possible globalisation of the offer and demand in that market, guarantee their customers the best possible price and term for the execution of their transactions;

b) when the situation envisaged in sub-article 2 of Article 156 occurs in relation to a particular security admitted to trading, and provided that
the prior agreement of the originators has been obtained where necessary, carry out the operations on the stock exchange whenever more favourable conditions can be achieved than in the OTC market.

**Article 178**

**Communication of operations on securities traded in the stock exchange**

1. Where transactions are carried out in the OTC market on any securities admitted to trading on the stock exchange, the financial intermediaries that carried out said transactions shall report them immediately to the stock exchange, under the terms to be determined in a regulation by the Audit of the AGMVM.

2. Upon receipt of the reports referred to in the preceding sub-article, the stock exchange shall disclose them under the terms established in the regulation referred to therein.

**Article 179**

**Weekly information**

1. Financial intermediaries operating in the OTC market shall prepare and submit to the AGMVM and to the stock exchange on the first business day of each calendar week, a list of all securities bought and sold through them in this market during the previous week, which shall be published in the official bulletin of the stock exchange.

2. Financial intermediaries that did not carry out any transactions in the week concerned shall expressly provide this information.

**Article 180**

**Implementation rate of OTC operations**

Fees shall be due for all operations carried out on the OTC market. These fees shall be fixed by regulation of the AGMVM.

**Article 181**

**Supervision**

The Bank of Cape Verde, through the Auditor-General of the Securities Market, shall regulate the provisions of this chapter and monitor compliance with their implementation.
Without prejudice to the provisions of Article 189, the provisions set out in this chapter apply to public offers addressed specifically to natural persons resident or established in Cape Verde, regardless of the offeror’s and issuer’s applicable law or the law applicable to the securities for which the offer is made.

**Article 183**

**Supervising authority**

The AGMVM shall be responsible for supervising public offers.

**Article 184**

**Qualification of the offer**

1. Offers of securities wholly or partially addressed to unidentified recipients or individually identified recipients through multiple standard communications shall be considered as public.

2. The following offers shall also be considered public:

   a) offers addressed to all the shareholders of a public company, even if its share capital is represented by nominal shares;

   b) offers that are wholly or partially preceded or accompanied by prospecting or solicitation for investment intentions from unidentified recipients or promotional material;

   c) offers addressed to at least 100 (one hundred) people who are non-qualified investors resident or established in Cape Verde.
Article 185

Private offers

The following shall always be considered private offers:

a) offers of securities addressed only to qualified investors;

b) subscription offers addressed by non-publicly held companies to the majority of their shareholders, except for the case described in sub-article 2(b) of the previous Article.

Article 186

General principles

1. Public offers shall take place under conditions that ensure equal treatment to the recipients.

2. If the total amount of securities that are the object of declarations of acceptance by the recipients is greater than the amount of securities offered, the securities shall be allocated in proportion to the requested amounts, unless other criteria are legally established or do not merit an objection by the AGMVM in approving the prospectus.

3. Public offers relating to securities where a prospectus is required shall take place through the intervention of a financial intermediary, which shall provide the following services:

a) assistance, as from the preliminary announcement and receipt of the declarations of acceptance, in takeovers;

b) assistance and placement in public offers for distribution.

4. The advertisements related to public offers shall follow the principles stipulated in Article 39 and shall refer to the existence or future availability of the prospectus.

5. The offeror shall ensure that the offer complies with the legal and regulatory standards applicable.
Section II
Prospectus
Article 187
Prospectus

1. Any public offer of securities shall be preceded by the publication of a prospectus containing complete true, updated, clear, objective and lawful information, necessary to enable the addressees to make an informed assessment of the offer, the securities concerned thereby and the rights attached thereto, its specific characteristics and the assets and liabilities, economic and financial position of the issuer and the prospects for the business and earnings of the issuer and the guarantor, if any.

2. The AGMVM may define by regulation duly justified cases in which the prospectus is waived.

3. The AGMVM shall regulate the models that govern the structure of the prospectuses of public offers.

4. Without prejudice to the provisions in chapters II and III of this Title and of the regulation approved by the AGMVM, the prospectus shall notably contain information on:
   a) the individuals responsible for its contents;
   b) the purposes of the offer;
   c) the issuer and its activity;
   d) the offeror and its activity;
   e) the issuer’s corporate governance structure;
   f) the name of the members of the issuer’s and the offeror’s governing bodies;
   g) the financial intermediaries.

5. Regardless of the format in which it is drawn up, the prospectus shall mandatorily include a summary in concise and non-technical language describing the essential characteristics and risks associated with the issuer, any guarantor and the securities being offered, as well a statement in the
introduction to the prospectus warning investors that any investment
decision should be based on the information in the prospectus as a whole.

6. The prospectus may conform to the format specified in the European Union.

7. The prospectus may only be disclosed by the means determined by the
AGMVM, after its approval thereof; the text and format to be disclosed shall
be identical to the original version approved.

8. Disclosure of the prospectus shall occur reasonable in advance, depending
on the characteristics of the offer and the investors to whom it is directed.

9. If, between the date of approval of the prospectus and the deadline of the
offer, any deficiency is detected in the prospectus or any new fact occurs or
if any facts not considered earlier in the prospectus which are relevant to the
decision of the recipients come to light, the AGMVM shall be immediately
required to approve an addendum or amendment of the prospectus, to be
released immediately after approval, which must occur within seven days.

10. Investors who have already transmitted orders of acceptance before the
addendum or amendment has been published have the right to revoke their
acceptance for a period of no less than two days after the addendum or
amendment has been made available to the public.

11. The prospectus shall be valid for a period of 12 (twelve) months from the
date of its disclosure.

**Article 188**

**Disclosure of the prospectus**

1. The prospectus shall be disclosed:

   a) by insertion in one or more newspapers widely circulated in the country;

   b) in a printed form to be made available, free of charge, to the public at the
      offices of the market on which the securities are being admitted to trading,
      or at the registered office of the issuer and at the offices of the financial
      intermediaries placing or selling the securities, including paying agents;

   c) in electronic form on the issuer’s website and, if applicable, on the website
      of the financial intermediaries placing or selling the securities, including
      paying agents;
\textit{Article 189}

\textbf{Prospectus of an international offer}

1. For the approval of the prospectus of a public offer for distribution, whose issuer was established outside Cape Verde, the AGMVM shall be the competent authority if such securities are to be offered to the public for the first time in Cape Verde or where the first application for admission to trading on a regulated market is made in this country.

2. The AGMVM shall be responsible for the supervision of takeover bids of securities issued by companies subject to the law of Cape Verde, provided that the securities concerned by the bid:

\begin{itemize}
  \item[a)] are admitted to trading on a regulated market situated or operating in Cape Verde;
  \item[b)] are not admitted to trading on a regulated market.
\end{itemize}

3. The AGMVM shall further have powers to supervise any takeover bids over securities issued by an offeree company subject to a foreign law as its personal law, provided that the securities concerned by the bid:

\begin{itemize}
  \item[a)] are exclusively admitted to trading on a regulated market situated or operating in Cape Verde; or
\end{itemize}
4. The AGMVM may approve a prospectus for a public offer for distribution of securities of an issuer whose registered offices are located outside of Cape Verde, prepared in accordance with the laws of the country of statutory seat, provided that:

a) the prospectus has been prepared in accordance with international standards set by international organisations of securities supervisors;

b) the prospectus contains information, particularly of a financial nature, equivalent to that provided in this Code.

Article 190
Cooperation

The AGMVM shall establish forms of cooperation with foreign competent authorities relating to the exchange of information necessary for the supervision of offers carried out in Cape Verde and abroad, particularly when an issuer having its registered office outside Cape Verde has more than one home competent authority due to its classes of securities, or when approval of the prospectus has been delegated to the competent authority of another country.

Article 191
Responsibility for the prospectus

1. The following shall be liable for damages caused by the non-compliance with the contents of the prospectus in accordance with the law, except in the case they prove to have acted without fault:

a) the offeror;

b) the members of the offeror’s management body;

c) the issuer;

d) the members of the issuer’s management body;

e) the promoters, in the case of an offer for subscription for the incorporation of a company;

f) the members of the auditing body, accounting firms, chartered accountants

b) have been admitted to trading on a regulated market situated or operating in Cape Verde in the first place.
and any other individuals that have certified or in any other way verified the accounting documents on which the prospectus is based;

g) the financial intermediaries in charge of assisting with the offer;

h) any other entities that accept being named in the prospectus as responsible for any information, forecast or study included in the prospectus.

2. Fault shall be judged according to the highest standards of professional diligence.

3. Liability shall be excluded if any of the individuals mentioned in sub-article 1 prove that the recipient knew or should have known about the shortcoming in the contents of the prospectus on the date of issue of the contractual declaration or when the respective cancellation was still possible.

4. The following shall be liable independently of fault:

a) the offeror, if any individual mentioned in sub-article 1(b), (g) and (h) is held responsible;

b) the issuer, if any individual mentioned in sub-article 1(d), (e) and (f) is held responsible;

c) the leader of the placement consortium, if a member of the consortium is held responsible, according to sub-article 1(g).

5. If several individuals are liable for the damage caused, their liability shall be joint.

**Article 192**

**Compensatory damages**

1. The compensation shall place the injured party in the exact situation it would be in if, at the moment of acquisition or alienation of securities, the contents of the prospectus had been in accordance with the provisions of the law.

2. The amount of the compensation shall be reduced should those liable prove that the damage occurred is also due to reasons other than the lack of information or forecasts contained in the prospectus.
Article 193

Termination of the right to compensation

The right to compensation based on the preceding Articles shall be exercised within six months of the knowledge of a shortcoming in the contents of the prospectus and shall cease, in any case, within two years of the date the result of the offer was disclosed.

Article 194

Legally binding

The rules set out in Articles 191, 192 and 193 may not be set aside or modified by any legal transaction.

Section III

Offer procedure

Article 195

Approval of the prospectus and prior registration

1. Prospectuses relating to public offers for distribution shall be subject to approval by the AGMVM.

2. A takeover bid shall be subject to prior registration with the AGMVM.

3. The AGMVM shall regulate the documents that must accompany the application for registration or approval of the prospectus.

Article 196

Decision

1. The application for registration or approval of the prospectus shall be considered tacitly rejected if the AGMVM does not pronounce itself within 30 (thirty) days from the date of receipt of the application for registration or any additional element or information requested.

2. The registration of a takeover bid shall imply the approval of its prospectus.

3. Registration shall be refused only when any of the documents accompanying the request is illegal or involves evasion of the law or when the offer is illegal or involves evasion of the law.
4. Before rejection, the AGMVM shall notify the offeror to remedy, within a reasonable time, remediable defects.

**Article 197**

**Offer period**

1. The period of validity of the offer shall be determined in accordance with its characteristics, defence of the interests of the recipients and issuer and the market’s operating requirements.

2. The offer period may only start on the day following the publication of the prospectus.

**Article 198**

**Interruption of trading on the stock exchange**

1. The AGMVM may interrupt the trading on the stock exchange of the securities object of takeover bids or public offers for sale if and for as long as it deems necessary or appropriate to ensure the regularity and transparency of market operation and to prevent the occurrence of acts of manipulation of the offer, of the demand or of the prices of these securities.

2. The interruption of the trading may occur from the moment the AGMVM is aware of the preparation of a takeover bid or public offer for sale.

**Article 199**

**Acceptance and execution**

1. The acceptance of the offer by the recipients shall be made by order given to the financial intermediary.

2. Acceptance by an acceptor may be withdrawn by the revocation of the order at any time up to five days before expiry of the offer period.

3. During the term of the offer, traders and other financial intermediaries that receive the orders referred to in sub-article 1 directly from the interested parties may send to the offeror’s representative daily information on acceptances received and withdrawn, with an indication of the total amount of securities corresponding to the former and the latter and, in the case of takeover bids, their discrimination both in terms of the nature and class of
the securities of which they are object, in the case of a multiple object offer, and in terms of the consideration chosen, when alternatives exist.

4. The assessment of the result of takeover bids or public offers for sale shall be made in a special stock exchange session.

Section IV
Vicissitudes
Article 200
Change of circumstances

In the case of an increase in the risks of an offer due to an unforeseen and substantial change of circumstances, which is known by recipients and upon which the decision to launch the offer is based, the offeror may, within a reasonable period and subject to the AGMVM’s authorisation, modify or revoke the offer.

Article 201
Amendment of the offer

1. The amendment of the offer shall lead to the extension of the respective time period, decided by the AGMVM on its own initiative or at the request of the offeror.

2. The declarations of acceptance of the offer prior to amendment shall be considered effective for the amended offer.

3. The amendment shall be disclosed immediately by the same means used for the launch announcement.

Article 202
Revocation of the offer

1. A public offer may only be revoked in accordance with Article 200.

2. The revocation shall be disclosed immediately by the same means used to disclose the prospectus or, if a prospectus is not required, by the means of disclosure determined by the AGMVM, through regulation.
Article 203
Withdrawal and prohibition of the offer

1. The AGMVM shall, as the case may be, order the withdrawal of the offer or prohibit its launch if the offer is impaired by any irremediable illegality or breach of a regulation.

2. Decisions on withdrawal or prohibition shall be published by the AGMVM, at the expense of the offeror, by the same means used to disclose the prospectus or, if a prospectus is not required, by the means of disclosure determined by the AGMVM, through regulation.

Article 204
Effects of revocation and withdrawal

The revocation and withdrawal of the offer shall determine the ineffectiveness of the offer and acts of acceptance prior or subsequent to the revocation or withdrawal, with the right to restitution of whatever has been delivered.

Article 205
Suspension of the offer

1. The AGMVM shall suspend the offer when any reparable illegality or violation of regulation is discovered.

2. The suspension of the offer shall confer on the recipients the possibility of withdrawing their declaration until the fifth day following the suspension, with the right to restitution of whatever has been delivered.

3. Each period of suspension of the offer may not exceed 10 (ten) business days.

4. If at the end of the period referred in the previous sub-article the defects that caused the suspension have not been corrected, the AGMVM shall order the withdrawal of the offer.
CHAPTER II
Public offers for distribution

Section I
General provisions

Article 206
Prospectus

1. Where the final offer price and amount of securities which are offered to the public cannot be included in the prospectus, this information may be omitted from the prospectus, provided that:

   a) the criteria and/or conditions in accordance with which the price and amount of securities are determined or, in the case of the price, the maximum price are disclosed in the prospectus; or

   b) acceptance of the purchase or subscription of securities may be withdrawn during a period of no less than two business days after the final offer price and amount of securities which will be offered to the public have been filed.

2. As soon as the same are determined, the final offer price and the amount of securities shall be notified to the AGMVM and disclosed in the terms of Article 187.

   Article 207
   Price of the offer

   The offer price shall be unique, except for the possibility of different prices depending on the class of securities or recipients, set in objective terms and based on legitimate interests of the offeror.

   Article 208
   Incomplete distribution

   If the total amount of the securities which are the object of acceptance declarations is less than the amount offered, the offer shall be effective in relation to the securities effectively distributed, except for any legal provision or offer terms to the contrary.
Article 209

Disclosure of information

1. The issuer, the offeror, the financial intermediaries in a definitive or proposed public offer for distribution and those who are involved in any of the situations set out in Article 93(1) shall, until the information related to the offer is made public:

   a) limit the disclosure of information related to the offer to what is necessary to fulfil the objectives of the offer, warning the recipients as to the privileged nature of the information issued;

   b) ensure that the information disclosed is consistent with that contained in the prospectus;

   c) limit the use of privileged information to such purposes as necessary for the preparation of the offer.

2. The entities described in the previous paragraph that, as from the moment that the offer is made public, disclose information related to the issuer or the offer shall:

   a) observe the principles that the quality of the information should comply with;

   b) clarify their relations with the issuer or their interest in the offer.

Article 210

Failure of admission to trading

1. When a public offer for distribution is accompanied by the information that the securities which are its object are intended to be admitted to trading in a regulated market, the recipients of the offer may cancel the acquisition transaction if:

   a) the admission to trading has not been applied for until the assessment of the offer’s result; or

   b) the admission is denied based on a fact triggered by the issuer, offeror, financial intermediary or those involved with them in any of the situations set out in sub-article 1 of Article 93.
2. The decision shall be reported to the issuer up to 60 (sixty) days after the refusal of admission to a regulated market or after the disclosure of the result of the offer, if an admission application has not been submitted within this time period.

3. The issuer shall return the amounts received within 30 (thirty) days of the receipt of the decision.

Section II

Investment intention gathering

Article 211

Admissibility

1. Investment intention gathering shall be permitted to determine the viability of a possible public offer for distribution.

2. Investment intention gathering may only be initiated after the disclosure of the preliminary prospectus.

3. Investment intentions may not serve as a means of entering into contracts but may grant the individuals consulted more favourable conditions in a future offer.

Article 212

Preliminary prospectus

1. The preliminary prospectus to gather intentions to invest shall be approved by the AGMVM.

2. The application for approval of the preliminary prospectus shall be supported by the documents determined by regulation of the AGMVM.

Section III

Public subscription offer

Article 213

Calendar

1. The issuer shall, with the submission of the application for registration, propose dates between which it shall, after registration is granted, proceed with the offer of securities, in which case the AGMVM shall be responsible for fixing the dates, depending on the market conditions.
2. In the case of an issue with preferential rights and public subscription, the subscription period reserved for holders of preemptive rights may not be less than 15 (fifteen) days and shall precede the period reserved for subscription by the general public.

**Article 214**  
**Advertising**

The AGMVM shall establish by regulation the terms and conditions under which the advertising of the securities covered in this Chapter is to be made.

**Article 215**  
**Successive offers and offers in series**

The launch by the same entity of a new subscription offer of securities of the same kind as those which had been the object of a previous offer or the launch of a new series shall depend on the prior payment of the full subscription price or the placing on hold of the write-off subscribers and the fulfilment of the formalities associated with the previous issue or series.

**Article 216**  
**Suspension of prohibition of the offer**

1. The Audit of the AGMVM may suspend, order the withdrawal of or prohibit at any time an offer for public subscription of securities that is being made or that may be made:

   a) without the necessary authorisations;

   b) without the prior registration of the issue;

   c) in different circumstances from those contained in the registration;

   d) based on inadequate or false information, presenting itself as illegal or in an attempt to evade the law;

   e) in violation of any other applicable laws and regulations that may jeopardise the legitimate interests of subscribers.

2. The withdrawal and suspension of the offer shall be advertised under the same conditions required for the disclosure of the issue.
3. Once the offer has been withdrawn, all acts practised under it shall be considered void and the subscribers of the securities that have been the object of the offer shall be entitled to receive the amounts delivered, as well as compensation for any losses incurred.

4. In case of suspension, investors may at any time until the end of the second business day following that on which the suspension ends and the offer is resumed, because the situation that caused it has been remedied, terminate the commitments made and demand repayment of the amounts spent.

Article 217

Excluded issues

This Title shall not apply to the offer for subscription of public debt securities, which is governed by special legislation.

Section IV

Public offer for sale

Article 218

Calendar

The offeror shall, with the submission of the application for registration, propose dates between which it shall, after registration is granted, proceed with the offer of securities, in which case the AGMVM shall be responsible for fixing the dates between a minimum of 10 (ten) and a maximum of 30 (thirty) days, given the characteristics of the offer, in the interests of the recipients and the set of requirements for the operation of the market.

Article 219

Blocking of securities

The application for approval of a prospectus of a public offer for sale shall be supported by a certificate evidencing the blocking of the securities offered.

Article 220

Cooperation duty of the issuer

The issuer of securities distributed in a public offer for sale shall provide the offeror, at its own expense, with the information and documentation necessary to prepare the prospectus.
CHAPTER III
Takeovers
Article 221
General principles

1. The takeover bid shall be addressed to all the holders of securities that are the
object of the offer.

2. If the takeover bid does not entail the acquisition of all the shares of the
target company and securities issued by the target company, which grant the
right to their subscription or acquisition, neither the offeror nor any other
individual involved in any of the situations as described in Article 93(1) may
accept the offer.

3. The takeover bid may only be made subject to conditions whose verification
does not depend on the offeror and which correspond to a legitimate interest
of the offeror and do not affect the normal functioning of the market and the
offer may also, in particular, be conditioned upon acceptance by holders of
a certain minimum number of shares and be limited to a maximum number
of shares.

4. The AGMVM may prohibit a takeover bid if it considers that the number
of shares to be acquired does not justify it or, if it is competing with another
takeover already launched, consider that between the conditions of both
there are no significant differences for the shareholders.

5. The AGMVM may order that a takeover bid already launched be removed
if, in relation to the offeree company or the offeror, any amendments have
occurred that would justify such a decision.

Article 222
Content and publication of the preliminary announcement

1. As soon as the decision to launch a takeover bid is made, the offeror shall
send the preliminary announcement to the AGMVM and to the board or
management entity of the offeree company, immediately proceeding with
the respective publication.

2. The preliminary announcement shall indicate the identification of the offeror,
the identification of the offeree company, the identification of the organising
financial intermediary, the identification of the shares object of the takeover bid, the consideration offered, a brief description of the offeror’s objectives, namely as regards the continuity or alteration of the business of the offeree company, of the offeror company, insofar as it is affected by the takeover and, in the same terms, by companies which have a control or group relationship with the offeree or offeror companies.

3. The publication of the preliminary announcement shall oblige the offeror to:

a) launch the takeover bid in terms no less favourable to the recipients than those contained in this announcement;

b) apply for registration of the takeover bid within a period of 20 days, extendable up to 60 days in public offers for exchange;

c) inform the representatives of its employees or, failing these, the employees of the content of the offer documents, as soon as these are made public.

**Article 223**

**Consideration of the takeover bid**

1. The consideration of the takeover bid may consist of cash, securities already issued or to be issued, or a mixture, of an offeror company or other company with which the former has a control or group relationship.

2. If the consideration consists of cash, the offeror shall deposit the total amount with a credit institution or present an appropriate bank guarantee, before registration of the offer.

3. If the consideration consists of securities, these shall have appropriate liquidity and be easy to evaluate.

**Article 224**

**Public offer for exchange**

1. Securities offered as consideration, which have already been issued, shall be registered or deposited on behalf of the offeror in a centralised system or with a financial intermediary, thus blocking the security.

2. Preliminary announcements and announcements of the launch of a takeover bid whose consideration consists of securities other than those issued by the offeror shall also include the details concerning the issuer and any securities
issued or to be issued by the issuer referred to in Article 222 and in sub-article 2 of Article 230.

Article 225

Acquisitions during the offer period

1. If, during the period that elapsed between the decision to launch a bid and the publication of the preliminary announcement, the offeror or company controlled by the offeror or, where the offeror is a company, another company with which it is in any of the situations listed in Article 90 acquires shares in the offeree company, the more onerous conditions of such acquisitions shall constitute the minimum condition of the bid.

2. From the publication of the preliminary announcement until the closing of the bid, the offeror may not, by purchase or exchange, purchase shares of the offeree company or of other companies with which it is in any of the situations listed in Article 93.

3. Where the offeror is a company, the members of its administrative and supervisory entities shall be prohibited from acquiring, by purchase or exchange, shares of the offeree company or other companies with which it is in a control or group relationship, once the launch has been decided upon and until the closure of the bid.

4. To financial intermediaries in the bid, the members of its administrative and supervisory entities, the offeree company and the members of its administrative and supervisory entities, the companies that are in a control or group relationship with the offeree company and the members of administrative and supervisory entities shall be prohibited from acquiring, by purchase or exchange, shares of the offeree company or of other companies with which it is in a control or group relationship, from the moment they became aware of the bid until the closure of the bid.

5. The provisions in the preceding sub-articles shall also apply to securities that are part of the consideration offered.

6. The violation of the provisions in the preceding sub-articles shall prevent the exercise of rights attaching to the shares thus acquired for a period of five years, but not the requirement of their obligations, notwithstanding the
seller from demanding compensation from the purchasers for the damage suffered.

7. The AGMVM may also determine the revision of the consideration if, as a result of these acquisitions, the consideration is not fair.

8. In the case of a takeover bid as a mandatory form of acquisition, the offeror shall be obliged to increase the consideration to a price of no less than the highest price paid for the securities thus acquired.

**Article 226**

**Duties of the offeree company**

1. Within eight days of receipt of the draft prospectuses and announcement of the bid and within five days of disclosure of any addenda to the offer documents, the board of the offeree company shall send to the offeror and to the AGMVM and disclose to the public a report drawn up on the opportunity and terms of the offer.

2. The report referred to in the preceding paragraph shall contain an autonomous and reasoned opinion on at least the following aspects:
   a) the type and amount of the consideration offered;
   b) the strategic plans of the offeror for the offeree company;
   c) the repercussions of the bid on the interests of the offeree company in general and in particular on the interests of its employees and their terms of employment and on the locations of the company’s places of business;
   d) the intentions of members of the boards who are simultaneously shareholders in the offeree company, in respect of acceptance of the bid.

3. The report shall contain information on possible “no” votes expressed in the resolution of the board that approved it.

4. If, by commencement of the bid, the board receives from the employees, directly or through their representatives, an opinion on the repercussions of the bid on employment, it shall be disseminated as an appendix to the report prepared by the board.

5. The management entity of the offeree company shall, as from the publication
of the preliminary announcement until the assessment of the result of the offer:

a) inform the AGMVM daily as to the transactions carried out by its members or by individuals involved in any of the situations described in Article 93(1), in securities issued by the offeree company;

b) provide all the information requested by the AGMVM in the ambit of its supervisory duties;

c) inform the representatives of its employees or, failing these, the employees of the content of the offer documents and of the report prepared by it, as soon as these are made public;

d) act in good faith, particularly concerning the accuracy of the information and honest behaviour.

Article 227

Limitation of the powers of administration of the offeree company

1. From the receipt of the preliminary announcement of the takeover bid and until the publication of the result of the bid or, if applicable, until the prior termination of the respective process, regardless of the cause thereof, the board or management entity of the offeree company may not, unless specifically authorised by the general meeting during that period, perform any acts that materially affect the normal management of the offeree company and which, due to their specific nature and conditions, may significantly affect the success of the takeover bid or the objectives and intentions announced by the offeror, namely:

a) issue shares or bonds convertible into shares;

b) issue bonds or other securities or enter into contracts that entitle the subscription of shares or their acquisition under any title;

c) sell or grant the holding of a sector or significant part of the corporate assets or enter into promissory contracts to that end;

d) sell or purchase important holdings or enter into promissory contracts for the sale or purchase of said holdings;

e) perform merger or demerger operations or enter into agreements to that end.
2. Exceptions to the provisions of the preceding sub-article shall be any acts performed in pursuance of an obligation provenly assumed before the date on which the offeree company has become aware of the offeror’s intention to launch a bid.

3. The AGMVM may, at the request of the board of administration of the offeree company, and with the prior hearing of the offeror whenever it deems appropriate, authorise the acts referred to in sub-article 1 when the considers them necessary for the timely defence or realisation of relevant and urgent interests of the company.

**Article 228**

**Duty of confidentiality**

People who, for duty of private or public office, have knowledge of preparing a takeover bid shall maintain full confidentiality until publication of the preliminary announcement of the bid, responding in the event of a breach of that duty to the offeror and to the shareholders of the offeree company.

**Article 229**

**Takeover period**

1. The takeover period may vary between 2 (two) and 10 (ten) weeks.

2. The AGMVM, on its own initiative or at the request of the offeror, may extend the takeover in case of revision, launching of a competing takeover bid or when the protection of the interests of the addressees so justifies.

**Article 230**

**Takeover period**

1. In takeover bids, a launch announcement describing the essential components for the formation of the agreements it refers to shall be published, including notably the following:

   a) identification of the offeror;

   b) identification of the financial intermediary in charge of assisting in or placing the offer;

   c) indication of the shares that are object of the takeover bid with the identification of the offeree company;
d) nature of the considerations;

e) indication of the intention of the offeror with the takeover;

f) indication of the relevant factors to determine the consideration offered;

g) indication of the holdings directly or indirectly held by the offeror in the offeree company;

h) indication of the holdings directly or indirectly held by the offeree company in the offeror company;

i) takeover period, with an express indication of the final date and hour to receive acceptances;

j) any conditions to the acceptance of the takeover bid by the holders of a certain number of shares;

k) indication of the maximum number of shares that the offeror intends to purchase and the allocation criteria, when necessary;

l) mention of the right of the shareholder to withdraw the acceptance in the event that, until the closure of the takeover bid, a competing takeover bid is launched under more favourable conditions;

m) cases in which the takeover bid may be without effect;

n) date on which the payment in cash is made or on which the securities representing the consideration are delivered;

o) place where the shares shall be delivered or exchanged;

p) indication of any expenses, taxes or charges to be borne by the shareholders;

q) places of dissemination of the prospectus.

2. The offer announcement shall be published simultaneously with the disclosure of the prospectus in a widely-distributed medium in the country or in an information disclosure medium designated by the managing body of the regulated market where the securities are admitted to trading.
Article 231

Content of the prospectus

1. Without prejudice to the provision of Article 187, the prospectus of a takeover bid shall contain information on:

a) the consideration offered and its provision;

b) the minimum and maximum amounts of securities that the offeror intends to acquire;

c) the percentage of voting rights that may be exercised directly or indirectly by the offeror in the offeree company;

d) the percentage of voting rights that may be exercised directly or indirectly by the offeree company in the offeror company;

e) any persons that, to the best of their knowledge, are in a control or group relationship or similar situation with regard to the offeror or the offeree company;

f) the securities of the same class as those that are the object of the offer and have been acquired in the previous six months by the offeror or by a company with which it is in a control or group relationship or similar situation;

g) the intentions of the offeror with regard to the continuity or alteration of the business of the offeree company, of the offeror, insofar as it is affected by the bid, and, in the same terms, by companies which have a control or group relationship with the offeree or offeror companies, with regard to the safeguarding of jobs and terms of employment of their employees and management, in particular the possible repercussions on the locations of the companies’ places of business, maintenance of the publicly traded status of the offeree company and trading in a regulated market of the securities for which the bid is made;

h) the possible implications of a successful bid for the financial condition of the offeror and any funding of the bid;

i) the shareholder agreements entered into by the offeror or any persons with significant influence on the target company;
j) the agreements entered into between the offeror or any related entity and the members of the governing bodies of the offeree company, including any special advantages that may have been stipulated in their favour;

k) the method of payment of the consideration when the securities that are the object of the offer are also listed on a regulated market located or functioning abroad;

l) the domestic legislation shall apply to agreements entered into by the offeror and the holders of securities in the offeree company, following acceptance of the bid, as well as the courts having jurisdiction to resolve any disputes resulting therefrom;

m) any charges to be borne by the recipients of the bid.

2. If the consideration consists of securities, issued or to be issued, the prospectus shall include all the information that would be required if the securities were the object of a public offer for sale or subscription.

Article 232
Competing takeover bid

1. As from the publication of the preliminary announcement, any other takeover of securities of the same class may only be carried out through a competing bid launched according to the terms of this Article.

2. Competing bids shall be subject to the general rules applicable to takeover bids, with the amendments contained in this Article and Articles 233 and 234.

3. Competing bids may not relate to a lower quantity of securities than that concerned by the initial bid; the consideration for the competing bid shall be greater than the previous one in at least 2% of the value and may not contain conditions that make it less favourable.

4. The effectiveness of a competing bid cannot be conditional upon a higher percentage of acceptances by holders of securities or voting rights than that contained in the initial bid or a preceding competing bid.

5. The offeree company shall ensure that all offerors are treated equally as to the information supplied to them.
Article 233

Procedures for competing bids

1. A competing bid shall be launched no later than 5 days before expiry of the period of the initial bid.

2. Publication of a preliminary announcement at a time that does not make it possible to meet the deadline referred to in the preceding number shall not be permitted.

3. Upon the timely launch of a competing bid, the bid periods shall coincide and each competitive takeover bid must observe the minimum period of time laid down in Article 229(1).

4. A request for registration of a competing bid shall be rejected by the AGMVM if it concludes, on the basis of the date of submission of the request for registration of the bid, that it is impossible to make a decision in time to enable the timely launch of the bid, pursuant to the provisions of sub-article 1.

5. In the event of competing bids, acceptances may be withdrawn up to the last day of the acceptance period.

Article 234

Rights of prior offerors

1. The launch of a competing bid and the review of any competing bid shall entitle any offeror to review the terms of its bid.

2. Should the offeror wish to exercise the right contemplated in the preceding number, said offeror shall notify its decision to the AGMVM and publish an announcement within four business days of the launch of the competing bid or the review of the bid. Failing such publication, the terms of the offer shall be deemed to have been maintained.

3. The provisions of Article 232(3) shall apply to the review of a bid in the case of competition.

4. The launch of a competing bid shall be a ground to withdraw voluntary bids.

5. The decision to withdraw a bid shall be published as soon as it is made, but in no event later than four days following the launch of the competing bid.
Article 235
Succession of bids
Except for express authorisation granted by the AGMVM for the protection of the interests of the offeree company or the recipients of the bid, neither the offeror nor any of the individuals involved in any of the situations described in Article 93(1) may, within 12 (twelve) months following the publication of the assessment of the offer’s result, launch directly, by means of a third party or on the account of a third party, any takeover for securities pertaining to the same class of those that were the object of the offer or that grant the right to their subscription or acquisition.

Article 236
Duty of launching a takeover bid
1. The launch of a takeover bid is mandatory when, in the case of a public company, the offeror holds more than one third or half of the voting rights attributable to the share capital, unless it can prove before the AGMVM that it neither dominates the offeree company nor is it involved with it in a group relationship.

2. Any entity proving that which is referred in the previous sub-article shall be obliged to:

   a) communicate to the AGMVM any change in the percentage of voting rights resulting in an increase greater than one percent in relation to the previously communicated situation; and

   b) launch a takeover bid as soon as it acquires a position allowing it to exercise a control influence over the offeree company.

3. The limit of one third described in sub-article 1 may be eliminated by the bylaws of publicly held companies that do not have shares or securities granting the right to their subscription or acquisition listed on a regulated market.

4. The bid shall be directed at all of the shares and other securities issued by the company that grant the right to their subscription or acquisition at an equitable price under the terms of Article 237.
5. The publication of the preliminary announcement of the bid shall occur immediately after the verification of the fact constituting the duty to launch.

6. The violation of the provision of sub-articles 1 and 4 shall prevent the exercise of the rights attached to the shares exceeding the threshold at which the launch would be due or that have been acquired through the exercise of rights attaching to those shares or other securities conferring the right to their subscription and acquisition, but does not prevent the requirement of the respective obligations.

7. The inhibition in the previous paragraph shall be valid for five years, ceasing:
   a) totally, with the publication of a preliminary announcement of a takeover bid by a consideration of no less than would be demanded if the duty had been accomplished in due time;
   b) in relation to each of the shares described in the previous sub-article, at the time of its sale to individuals not described in Article 93.

8. The offender shall be liable for the damages caused to the holders of securities on which a takeover bid should have been launched.

9. The AGMVM may waive the takeover bid following an application to that effect made by the would-be acquirer, where it finds, cumulatively, that the sale or exchange has no speculative purposes, that the number of shares to be acquired, in itself, does not justify the bid, and that increase of the shareholder’s influence in the company is not relevant.

10. The provision in the preceding sub-articles shall not apply when the requirement to launch the takeover bid is the result of the direct or indirect acquisition in a privatisation process or the implementation of a financial recovery plan required by law.

11. The obligation to launch a takeover bid shall be suspended if the person obliged by it, in a written communication to the AGMVM, immediately after the occurrence giving rise to the duty to launch agrees to bring the situation to an end in the following 120 (one hundred twenty) days, with the rights attached to the shares being suspended until they are sold to a person not related to the offeror.
Article 237
Consideration

1. For the purposes of the provision in sub-article 4 of the preceding Article, equitable price shall be understood to be the highest price paid for the same securities by the offeror in the six months prior to the date of publication of the preliminary announcement of the bid or, if higher, the average market price during the same period.

2. If, after the publication of the preliminary announcement and until the end of the acceptance period, the offeror purchases securities above the bid price, the offeror shall be obliged to increase the value of the bid up to a price of no less than the highest price paid for the securities thus purchased.

3. If the consideration may not be fixed pursuant to the terms of sub-article 1, the minimum consideration shall be fixed at the offeror’s expense by an independent auditor nominated by the AGMVM; the same shall apply as determined by the AGMVM when it considers the consideration inequitable.

4. The consideration shall be deemed inequitable when:
   a) the highest price was fixed by agreement between the buyer and the seller through private negotiation;
   b) the securities concerned offer reduced liquidity with reference to the market in which they are admitted to trading;
   c) the market prices were affected by exceptional events.

5. The consideration may consist of securities if these are of the same type as those referred to in the bid and are admitted to trading or are of the same class of securities of proven liquidity admitted to trading on a regulated market, provided that the offeror has not, within the six months prior to the preliminary announcement and until the closing of the bid, acquired any shares in the share capital of the offeree company in cash, in which case equivalent consideration in cash must be presented.

Article 238
Compulsory takeover

1. Any entity that, following the launch of a takeover bid directly or indirectly
achieves or exceeds 90% of the voting rights corresponding to the share capital up to the determination of the outcome of the bid and 90% of the voting rights covered by the bid may, in the subsequent three months, acquire the remaining shares for a fair consideration, in cash, calculated in the terms of the preceding Article.

2. If an offeror, as a result of acceptance of a voluntary takeover bid, acquires at least 90% of the shares representing the share capital with voting rights, it shall be presumed that the consideration for the bid corresponds to a fair price.

3. The controlling shareholder who makes the decision for a compulsory takeover shall immediately publish a preliminary announcement and submit it to the AGMVM for registration, depositing the consideration with a credit institution to the order of the holders of the remaining shares.

**Article 239**

**Consequences**

1. The acquisition shall become effective upon publication by the interested party of the registration with the AGMVM.

2. The AGMVM shall relay to the centralised system managing body or registering entity of the shares the information necessary for the transfer between accounts.

3. If the shares held are certified and not integrated in a centralised system, the company may proceed with the issuance of new certificates representative of the acquired shares and the old certificates will only be used to legitimise the receipt of the consideration.

4. The acquisition shall immediately imply loss of the publicly traded status of the company and exclusion from trading in a regulated market of the company’s shares and securities carrying rights to shares, and their readmission shall not be permitted for one year.

**Article 240**

**Compulsory sale**

1. All holders of the remaining shares may, in the three-month period following
the determination of the outcome of the takeover bid referred to in Article 238(1), exercise their right to sell-out, to which end they must address a written invitation to the controlling shareholders to make a proposal to acquire their shares within 8 (eight) days.

2. In the absence of the proposal described in the previous sub-article or if the same is not considered satisfactory, any holder of the remaining shares may take the decision for a compulsory sale by means of a declaration before the AGMVM submitted with:

   a) a document attesting to the deposit or blockage of the shares to be sold;
   b) an indication of the consideration calculated in the terms of Article 237.

4. Once the sale requirements have been verified by the AGMVM, the sale shall be effective from the date of notification by that authority to the controlling shareholder.

5. The certificate of the notification shall constitute a writ of execution.

TITLE V
CRIMES AND ADMINISTRATIVE OFFENCES
CHAPTER I
Crimes
Section I
Crimes against the market
Article 241
Insider trading

1. Any person who possesses inside information:

   a) by virtue of their membership of the administrative, management or supervisory bodies of an issuer or their holding in the capital of the issuer;
   b) by virtue of the permanent or occasional exercise of their employment or duties in respect of the issuer or any other entity;
   c) by virtue of their public employment or office;
   d) by virtue of having access to the information by means of a criminal offence or which implies having committed a criminal offence;
e) and discloses such information to any person other than in the normal exercise of their duties or who, on the basis of such information, trades or advises anyone to trade in securities or other financial instruments, or directly or indirectly orders their subscription, purchase, sale or exchange for their own account or a third party’s account, shall be punished by imprisonment of between 6 months and 3 years or a fine of between 80 and 200 days.

2. Any person not falling under the provisions of the preceding paragraph and who, having become aware of inside information, discloses it to a third party or, on the basis of said information, whose direct or indirect source can only be one of the individuals referred to in the preceding paragraph and, not ignoring that the information takes this nature, seeks to profit from it, acquiring or disposing of securities on their own account or on a third party’s account, directly or through third parties, shall be punished by up to two years of imprisonment or a fine of up to 150 days.

3. For the purposes of this Article, inside information shall mean all information of a precise nature that has not been made public relating to one or more issuers of securities or one or more securities and which, if it were made public, would be likely to have a significant effect on the price of said securities in the market.

**Article 242**

**Market manipulation**

1. Whoever discloses misleading, incomplete, exaggerated or biased information, carries out fictitious transactions or executes other fraudulent practices that are capable of artificially altering the regular functioning of the markets in securities or other financial instruments, shall be punished by a maximum imprisonment of 3 years or a fine of between 100 and 300 days.

2. Those acts considered capable of artificially altering the regular functioning of the securities market shall be those acts that may change the regular conditions of offer or demand of securities or other financial instruments in the secondary market or the conditions of price development or the normal conditions of the launch and acceptance of a public offer.
Article 243

Attempt

The attempt to practise the crimes provided for in the preceding articles shall be punishable.

Article 244

Breach of the duty to prevent manipulative practices

The members of the administrative board of the issuer and those responsible for the general management or supervision of areas of activity of a financial intermediary who, having knowledge of the facts described in sub-article of the preceding Article, performed by individuals directly subject to their management or supervision, and in the performance of their duties, do not immediately put an end to such acts, shall be punished by imprisonment of up to two years or a fine of up to 240 days, if a more serious punishment is not applicable to them under any other legal provision.

Article 245

Operations carried out by the State

The provisions of Articles 241 and 242 shall not apply to transactions carried out in pursuit of monetary, exchange rate or public debt management policy by the Central Bank or by any other body designated by the State, or to price stabilisation transactions carried out in the conditions permitted under the law.

Article 246

Supplementary penalties

Besides those set out in the Penal Code, the following supplementary penalties may be imposed to the crimes described in the preceding articles:

a) disqualification, for a maximum period of five years, from the practice as agent of the profession or activity associated with the crime, including prohibition of the practice of management, administration, control or supervision and, in general, representation of any financial intermediary, within the scope of some or all intermediary activities in securities or other financial instruments.

b) publication of the conviction, at the expense of the defendant, at appropriate locations and in compliance of the legal system and protection of the market
in securities or other financial instruments, in particular in major national newspapers and specific publications in the area of activity in question.

Article 247
Seizure and forfeiture of the benefits of a crime

1. Where an offence generates transitional or permanent economic benefits for an indicted person or a third party for whose account the indicted person trades, including interest, profits or other economic benefits, the same shall be seized during the proceedings and declared forfeited in the decision convicting such persons, in the terms laid down in the following numbers.

2. Any amounts seized in the terms of preceding paragraph shall be applied to remedy the persons who have incurred damages and submitted their claims in the context of criminal proceedings, 60% of the remainder being declared forfeited in favour of the State and 40% in favour of the AGMVM.

3. The economic benefits generated by an offence shall include capital gains effectively realised and expenses and losses avoided by committing the offence, irrespective of the final application thereof by the indicted person.

Section II
Crime of non-compliance

Article 248
Non-compliance

1. Whoever refuses to respect the orders or legitimate writs of the AGMVM, issued within the scope of its supervisory functions, or by any form creates obstacles to its execution, shall incur the penalty set out for the crime of qualified non-compliance.

2. Those who fail to meet obligations, hinder or defraud the execution of the accessory sanctions or the precautionary measures imposed in an administrative offence process shall incur the same penalty.
Section III
Procedural provisions
Article 249
Notification of crime report

1.Notification of crimes against the market in securities or other financial instruments shall be obtained from the AGMVM’s own information, criminal police agencies or denunciation.

2. Any judicial authorities, police authorities, employees or financial intermediaries which have their registered office, central management or a branch in Cape Verde and which, in the course of their profession or duties, become aware of circumstances that may be qualified as a crime against the market in securities or other financial instruments shall immediately notify the General Audit of the AGMVM.

3. The notification referred to in the preceding paragraph may be submitted through any means appropriate to such end and shall be confirmed in writing upon the request of the Auditor General whenever it has not been initially submitted in writing.

4. The notification submitted by financial intermediaries shall contain the reasons for the suspicion, a detailed and accurate identification of the transactions in question, the orders given, the persons on whose behalf the transactions were carried out and of other persons involved in the relevant transactions, the forms of trading, the portfolios involved, the economic beneficiaries of the transactions, the markets in question and any other information which may have significance to the end in mind, as well as the capacity in which the person signing the notification operates and his relationship with the financial intermediary.

5. A person or entity that submits a notification to the AGMVM in the terms of this Article shall be prohibited from disclosing this fact or any other information thereon to clients or third parties, and shall not be held liable for performing this duty of secrecy or any notification in good faith.

6. Neither the identity of the person notifying such transactions or supplying any information contemplated in this Article nor the identification of the
entity for which such person works shall be disclosed, unless such disclosure is ordered by a judge in the terms contemplated in the Criminal Procedure Code.

**Article 250**

**Preliminary investigation**

1. Once the facts that may be qualified as crimes against the market in securities or other financial instruments have been established, the Auditor General of the AGMVM may order the opening of preliminary investigation proceedings.

2. The process of investigation shall be directed by the Auditor General, without prejudice to the internal rules of the distribution of powers and the general delegations of powers within the respective services.

3. Such preliminary investigations shall include the actions necessary to determine the possible existence of a report on a crime against the market in securities or other financial instruments.

4. Upon completion of preliminary inquiries and once a crime has been ascertained, the Auditor General shall submit the relevant elements to the Public Prosecutor.

**Article 251**

**The AGMVM’s prerogatives**

1. Within the scope of the investigation procedure, the AGMVM may, without prejudice to its supervision and enforcement powers:

   a) ask any persons or entities for any clarification, information, documents, irrespective of their form, items and particulars necessary to confirm or reject the suspicion of a crime against the market in securities or other financial instruments;

   b) request the competent judicial authority, pursuant to the provisions of the Criminal Procedure Code, to seize and inspect any documents, irrespective of their form, valuables, items related to the suspected crimes against the market in securities or other financial instruments or seal items not seized in the facilities of persons and entities subject to its supervision, to the
extent the same prove to be necessary to investigate the suspected crime against the market in securities or other financial instruments.

2. For the purposes of the provisions of the preceding sub-article, the AGMVM may request the collaboration of other entities, the police authorities and criminal investigation police bodies.

3. In the event of an emergency or danger arising from any delay, even before starting any preliminary enquiries, the AGMVM may perform the actions necessary for the acquisition and preservation of the evidence for the purposes described in this Section.

Article 252
Notification duty

The Auditor General of the AGMVM shall be notified of the decisions taken during the proceedings of crimes against the market in securities or other financial instruments.

CHAPTER II
Administrative offences
Section I
Special administrative offences
Article 253
Common provisions

1. The following fines shall be applicable to the offences set out in this Section:
   a) between 2,500,000$00 and 30,000,000$00, when classified as very serious;
   b) between 500,000$00 and 12,500,000$00, when classified as serious;
   c) between 25,000$00 and 1,250,000$00, when classified as less serious.

2. The administrative offences provided for in the following Articles shall concern both the breach of duties laid down in this Code and any regulations thereon and the breach of duties laid down in other laws and any regulations thereon in respect of the following matters:
   a) public offers concerning securities;
b) financial intermediation;

c) venture capital companies;

d) venture capital funds or entities legally authorised to manage venture capital funds;

e) assurances linked to investment funds;

f) individual subscription contract to open-end pension funds;

g) information and advertising system concerning any of said matters.

3. If, in accordance with the law or regulation, a duty is required to be fulfilled within a determined period of time, non-compliance with said duty shall be deemed to exist as soon as the time period has expired.

4. Information that has not been disclosed by the appropriate means shall be deemed not to have been disclosed.

5. Where a law or a regulation alters the conditions or terms of compliance with a duty contained in a prior law or regulation, the former law shall apply to the circumstances that occurred while it was in effect and the new law shall apply to all subsequent circumstances, unless the most favourable law applies in the light of the nature of the circumstances.

Article 254

Information

1. The following shall constitute a very serious administrative offence:

a) transmission or disclosure by any means of information on securities or other financial instruments that is not comprehensive, true, current, objective and lawful by any person or entity subject to the obligation to inform, including the provision of information to its clients by an entity which carries out intermediation activities;

b) the failure to submit documents to the AGMVM’s information disclosure system.

2. Any of the following behaviours shall constitute a serious offence:

a) the practice of actions described above, if the securities or other financial
instruments to which the information refers is not traded on a regulated market and if the value of the operation is equal or inferior to the maximum limit of the fine prescribed for serious offences;

b) the submission of information that is not comprehensive, true, current, clear, objective and lawful to the supervision entities and to the Stock Exchange;

c) the total or partial failure to submit documents or information to the AGMVM and to the Stock Exchange;

d) the publication or disclosure of information without a report or opinion drawn up by an independent auditor registered with the Auditors and Certified Accountants’ Association or the failure to declare that the information was not audited, when required by law;

e) the breach of information systems containing investment recommendations and any conflicts of interests related thereto.

3. The disclosure of information not written in Portuguese or without a translation into Portuguese, when required, shall constitute a less serious offence.

4. The disclosure of advertising material that is not in accordance with the following requirements shall constitute a less serious offence:

a) clear identification as an advertising message;

b) approval by the AGMVM, when required;

c) reference to the prospectus;

d) prior disclosure of the preliminary prospectus, in case of withdrawal of investment intentions.

Article 255

Securities

1. The violation of any of the following duties shall be a very serious offence:

a) the cancellation of certificated securities converted into book entry securities;

b) the adoption of measures to prevent or correct divergences between the quantity of the securities issued and those in circulation;
c) the adoption by the registering entities of the required means for the security of registers and separation of securities accounts;

d) keeping individual registers of certificated or book entry securities integrated in a centralised system without the required details or documentation;

e) the blockage demanded by law or securities holders.

2. The following shall be very serious offences:

a) the transfer of blocked securities;

b) the cancellation of registers or the destruction of deposited certificates, except in the cases prescribed by law;

3. The following shall be serious offences:

a) the registration of book entry securities or the deposit of certificated securities with entities distinct from those allowed or demanded by law;

b) the refusal of information by a registering or depository entity to individuals authorised to request same or the omission of submitting information within the required time period prescribed by law or agreed with the interested party.

4. The facts referred to in the preceding paragraphs shall constitute a less serious administrative offence when relating to securities issued by private companies or companies not admitted to trading in a regulated market.

**Article 256**

**Public companies**

1. The failure to report or disclose qualifying holdings in public companies shall constitute a very serious administrative offence.

2. The omission of the following shall be considered a serious offence:

a) communication to the AGMVM of shareholder agreements relating to the exercise of corporate rights in a public company;

b) verification of the authenticity of postal votes and guarantee of their confidentiality.

3. The omission of the following shall be a less serious offence:

a) mention of the public company status in external acts;
b) communication to the AGMVM of an indication of non-compliance with the duty of information relating to qualifying holdings in public companies;

c) the rendering of information to the holder of a qualifying holding in a public company by the holders of securities to which the inherent voting rights are attributable;

d) the fulfilment of the duties resulting from the loss of public company status.

Article 257

Public offers

1. The following shall be very serious offences:

a) the performance of a public offer without approval of its prospectus or registration with the AGMVM;

b) the acceptance of subscription or purchase orders before disclosure of the prospectus or, in the case of a takeover bid, before publication of the offer announcement;

c) disclosure of a prospectus, any supplements thereto and rectifications to the base prospectus without prior approval thereof by the competent authority;

d) the disclosure of privileged information about a public offer for subscription or sale that has been decided or planned;

e) the creation or amendment of accounts, registers or fictitious documents susceptible of modifying the rules of attribution of securities.

2. The violation of any of the following duties shall be a very serious offence:

a) the equality of treatment and observance of the rules of apportionment;

b) the disclosure of the results of an offering or application for admission to trading of securities that are the object of an offer;

c) the disclosure of a prospectus, base prospectus, any supplements and rectifications thereto or the final terms of the offer;

d) the inclusion of information in the prospectus, base prospectus, any supplements and rectifications thereto or in the final terms of the offer which is complete, accurate, updated, clear, objective and lawful;
e) the duty of secrecy relating to the preparation of a takeover;

f) the publication of the preliminary announcement of the public takeover bid;

g) the application for registration of the public takeover bid, as well as the launch of the bid after the publication of the preliminary announcement;

h) the launch of a mandatory takeover bid;

i) the communication to the AGMVM of an increase in voting rights in a percentage higher than 1% by whom, having exceeded more than one third of the voting rights within a public company, has proved that it does not control and is not in a group relationship with that company;

j) the duties relating to the execution of transactions pending a public takeover bid;

k) the duty to increase the consideration to a price not lower than the highest price paid for the securities purchased in a transaction pending a takeover bid.

3. It shall be a serious offence for a public offer to take place:

a) without the intervention of a financial intermediary, where such intervention is mandatory;

b) with violation of the rules relating to its amendment, revision, suspension, withdrawal or revocation.

4. The following shall be serious offences:

a) the collection of intentions to invest without approval of the preliminary prospectus by the AGMVM or before disclosure thereof;

b) the violation of the issuer’s duty of cooperation in a public offer for sale;

c) the failure to submit the preliminary announcement to the AGMVM, offeree company or managing bodies of the regulated market;

d) the violation, by a company which is the object of a public takeover, of the duty to publish a report on the bid and to submit it to the AGMVM and to the offeror and of the duty to inform the AGMVM of the transactions involving securities which are the object of the takeover bid;
e) the breach of the duty of prior notification of the registration document to the AGMVM;

f) the breach of the duty to include the list of information incorporated by reference in the prospectus when the prospectus contains information incorporated by reference;

g) the breach by the offeror or by any persons who are in any of the relationships as set out in Article 93 with the offeror, of the prohibition to carry out transactions outside the regulated market involving securities of the class that is object of the takeover bid or that are part of the consideration without prior authorisation by the AGMVM;

h) the breach, by the offeror or by any persons who are in any of the relationships as set out in Article 93 with the offeror, of the duty to communicate to the AGMVM any transactions carried out pending a takeover bid.

5. The omission of communication to the AGMVM of a private offer for subscription or sale shall be a less serious offence.

Article 258

Financial intermediation activities

1. The execution of acts or the performance of financial intermediation activities without due authorisation or registration or outside the scope of authorisation or registration shall be a very serious offence.

2. The violation by entities authorised to perform financial intermediation activities of any of the following duties shall be a very serious offence:

a) to effect and maintain updated the daily register of operations;

b) to respect the rules governing conflicts of interest;

c) not to effect operations under the conditions referred to in Article 52(1)(c);

d) to verify the legitimacy of those placing orders and to take the steps which make it possible to establish the time at which the orders are received;

e) to reduce in writing or record orally received orders;

f) to respect the rules of priority in the transmission and execution of market orders;
g) to provide clients with the necessary information;

h) not to execute, without the authorisation of or the confirmation from the client, contracts in which the client is a counterpart;

i) to disclose orders that are not immediately executable.

3. The following shall be considered very serious offences:

a) the execution by any financial intermediaries in the OTC market of transactions involving securities listed on a stock exchange, with the exception of transactions authorised under Article 156(2);

b) the receipt of stock orders by any financial intermediaries, with violation of the provisions in Articles 159 and 160.

4. The violation by entities authorised to exercise financial intermediation activities of any of the following duties shall be a serious offence:

a) to preserve documents within the time legally demanded;

b) to deliver to the respective recipients, as appropriate, the documents referred to in Articles 169 and 170;

c) to accept orders;

d) to refuse orders;

e) to keep client records;

f) the failure by financial intermediaries to communicate OTC operations.

**Article 259**

**Organised trading systems**

1. The following shall be very serious offences:

a) the creation, maintenance of functioning or management of organised trading systems, the suspension or closing of its activity outside the cases and terms prescribed by law or regulation;

b) the functioning of a regulated market or multilateral trading system in accordance with rules not registered with the AGMVM or not published;

c) the failure by the managing bodies of regulated markets or multilateral
trading systems to provide information they are required to provide to the public;

d) the admission of members of a regulated market or multilateral trading system by the respective managing body without the requirements prescribed by law or regulation;

e) the lack of advertising of regulated market sessions;

f) the admission of financial instruments to trading in a regulated market in breach of the legal rules and regulations;

g) the non-disclosure of the admission prospectus, respective addenda and rectifications, or of information necessary for their update or disclosure without the prior approval of the competent entity;

h) the non-disclosure of the information required by the issuers of securities traded in a regulated market;

i) the breach of the inside information system, except when such breach is a crime.

2. The violation of any of the following duties shall be a serious offence:

a) submitting the details necessary for the information of the public to the managing body of the regulated market by the issuers of securities admitted to trading;

b) the informative link with other regulated markets;

c) the provision to the managing body of the regulated market or multilateral trading system by its members of the necessary information for the proper management of the market or trading system;

d) the application for admission to trading in the regulated market of securities of the same category as those already admitted;

e) the submission to the AGMVM of the information required by law by the issuers of securities admitted to trading in a regulated market or by those that had requested the admission to trading in a regulated market of securities without the issuer’s consent;

f) the disclosure of the document consolidating the annual information.
3. The lack of nomination of the following shall be a less serious offence:

   a) a liaison representative for the market and the AGMVM by an entity with securities admitted to trading in a regulated market;

   b) a representative before the managing body of such market and the AGMVM by a member of the regulated market.

**Article 260**

**Operations**

1. The carrying out of the following operations shall be a very serious offence:

   a) in a particular regulated market or multilateral trading system on financial instruments not admitted to trading in said market or not selected for trading in said system or suspended or excluded from trading;

   b) operations not allowed or in conditions not allowed;

   c) without providing the required guarantees.

4. The following shall be serious offences:

   a) the carrying out of operations without the intervention of a financial intermediary, when required;

   b) the trading in a regulated market of operations based on standard clauses that have not been approved or reported in advance, when so required;

   c) the carrying out of operations by members of the administrative, management and supervisory bodies of financial intermediaries or stock exchanges, as well as by their employees, if they are precluded from being involved in said operations.

**Article 261**

**Professional duties**

The violation of any of the following duties shall be a very serious offence:

   a) professional secrecy;

   b) asset separation;

   c) the non-use of securities, other financial instruments or cash outside the cases prescribed by law or regulation;
d) the defence of the market.

Article 262
The AGMVM’s rules

1. It shall be a serious offence not to comply with the AGMVM’s legitimate orders or writs transmitted in writing to recipients.

2. If the non-compliance described in sub-article 1 occurs and the AGMVM notifies the recipient to comply with the order or writ and the non-compliance continues, a fine corresponding to a very serious offence shall apply, provided the AGMVM’s notification contains an express indication that in case of non-compliance, this sanction will be imposed.

Article 263
Other offences

The violation of duties not specified in the preceding articles but set out in this Code or other laws or regulations described in Article 253(2) shall be:

a) less serious offences;

b) a serious offence whenever the agent is a financial intermediary in the performance of their respective activities; or

c) a very serious administrative offence in the case of a breach of a duty of secrecy in respect of the AGMVM’s supervisory activities.

Section II
General provisions

Article 264
Liability for administrative offences

1. Individuals, legal entities, independently of the regularity of their incorporation, companies and associations without a legal status may be liable for the offences set out in this Code.

2. The legal persons and entities described in the above sub-article shall be liable for the offences set out in this Code when actions have been practised in the exercise of their respective duties or in their name or on their behalf by members of their management bodies, agents, representatives or employees.
3. The liability of the legal persons and entities shall be excluded when the agent acts against the express orders or instructions of said person or entity.

4. Unless an even greater sanction is applicable to the individual by another legal provision, the sanction set out for the author of the act, especially mitigated, shall be imposed on the members of the management bodies of companies and similar entities as well as those responsible for the management or supervision of areas of activity where the offence takes place, whenever such individuals, being aware or in a position where they should have been aware of the offence, do not adopt measures to end the same immediately.

5. The liability of the legal persons and related entities shall not exclude the individual liability of the respective agents.

Article 265
Forms of offences

1. The administrative offences set out in this Code shall be punishable when said offence is of an intentional or negligent nature.

2. The attempt to practice any of the administrative offences described in this Code shall be punishable

Article 266
Fulfilment of the violated duty

1. Whenever the administrative offence results from the omission of a duty, the payment of a fine or fulfilment of an accessory sanction, the offender shall not be released from fulfilling the obligation, if this is still possible.

2. The AGMVM may subject the offender to an injunction to comply with the duty owed.

3. If the injunction is not executed in the set period of time, the agent shall incur the sanction prescribed for very serious offences.

Article 267
Accessory sanctions

1. In addition to the fines provided for in the preceding paragraphs, and notwithstanding those provided for in other legislation, the following
accessory sanctions may be imposed on those responsible for any offence, according to the nature and seriousness or frequency of said offences and taking into account the type of activity of the offender and the conditions for exercising said offence:

a) apprehension and loss of the object of the offence, including the benefit obtained by the offender by the practice of the offence;

b) temporary suspension of the exercise by the offender of the profession or the activity to which the offence refers;

c) disqualification from the exercise of the duty of administration, management, control or supervision and, in general, representation of any financial intermediaries within the scope of any or all activities of intermediation in securities or other financial instruments;

d) publication by the AGMVM, at the expense of the offender and in places suitable for the accomplishment of the aims of general prevention of the legal system and protection of markets in securities or other financial instruments, of the sanction imposed in view of the offence.

2. The sanctions described in paragraphs b) and c) of the sub-article above may not have a duration of more than five years from the definitive sanctioning decision.

Article 268

Determination of the applicable sanction

1. The determination of the actual fine and accessory sanctions shall be done pursuant to the material illegality of the act, the agent’s negligence, the benefits obtained and the prevention requirements, further taking into account whether the agent is a natural or legal person.

2. In the determination of the material illegality of the act and the negligence of legal persons and related entities, the following circumstances, among others, shall be taken into consideration:

a) the danger or damage caused to investors or the securities market;

b) the occasional or repeated nature of the offence;

c) the existence of the concealment of acts which tend to impair discovery of the offence;
the existence of acts by the agent, on own initiative, aiming at repairing the damages or preventing the dangers caused by the offence.

3. In the determination of the material illegality of the act and negligence of individuals, besides those described in the sub-article above, the following circumstances shall be taken into consideration:

   a) the level of responsibility, scope of duties and role in the said legal entity;

   b) the intention to obtain, for itself or another entity, an illegitimate benefit or to cause damages;

   c) the special duty of not committing the offence.

4. In the determination of the applicable sanction, the agent’s economic situation and previous conduct shall also be taken into consideration

   **Article 269**

   **Fines, costs and economic benefits**

   1. When offences are also attributable to the entities described in Article 264(2), these entities shall be jointly responsible for the payment of fines, costs or other burdens associated with the sanctions imposed in the offence proceedings for which the individual agents described in the same sub-article are responsible.

   2. 60% of the proceeds from fines and the economic benefit in administrative offence proceedings shall revert to the State and 40% to the AGMVM, regardless of the stage at which the sentence becomes *res judicata*.

   **Article 270**

   **Subsidiary law**

   Except when otherwise prescribed by this Code, the general legal framework applying to administrative offences shall apply to the offences set out in this Code as well as to the procedures applying to it.
Section III
Procedural provisions

Article 271
Jurisdiction

1. The AGMVM’s shall have jurisdiction over the proceedings of administrative offences, imposition of sanctions and accessory sanctions as well as measures of precautionary nature set out in this Code.

2. The AGMVM may apprehend any documents, irrespective of their form, valuables or items related to the pursuit of unlawful acts and seal items not seized in the facilities of persons or entities subject to its supervision to the extent the same are necessary for investigating or supporting any proceedings entrusted to it.

Article 272
Appearance of witnesses and experts

1. The AGMVM shall impose a pecuniary sanction of up to 100,000$00 to witnesses and experts that do not appear on the designated day, time and place for due process, without justifying their absence immediately or within (5) five business days.

2. Payment shall be effective within 10 (ten) business days of the notification, under threat of enforced payment proceedings being instituted.

Article 273
Absence of the defendant

The failure of the defendant to appear shall not prevent offence proceedings from continuing.

Article 274
Notifications

1. Notifications in administrative offence processes shall be made by registered letter with acknowledgement of receipt, addressed to the headquarters or domicile of the recipients and their legal representative, or individually, if necessary, by means of the police authorities.
2. The notification to the defendant of pleadings that represent an administrative
oxofence, as well as the decision to impose a fine, accessory sanction or some
interim measures of protection, shall be made in accordance with the above
sub-article or, when the defendant is not found or refuses to accept the
notification and has no legal representative established in the process, by an
announcement published in one of the country’s major local newspapers.

Article 275
Interim measures of protection

1. When it becomes necessary for the instruction of proceedings, the defence of
the market in securities or other financial instruments or the protection of the
interests of investors, the AGMVM may order one of the following measures:

a) the preventive suspension, in whole or in part, of the activities or functions
carried out by the defendant;

b) the subjection of the exercise of functions or activities to certain conditions
necessary for said exercise, namely compliance with the duty to inform;

2. The application of the measure described in the sub-article above shall come
into force, as appropriate:

a) until its revocation by the AGMVM or final judgement;

b) until enforcement of an accessory sanction equivalent to the measures
contemplated in the preceding number.

3. The order of preventive suspension may be published by the AGMVM.

4. When, in accordance with sub-article 1, total suspension of the activities
or functions carried out by the defendant is determined and the defendant
is convicted in the same process to an accessory sanction which consists
of the disqualification or suspension of carrying out the same activities or
functions, the time served in preventive suspension shall be fully deducted
in the execution of the accessory sanction.

Article 276
Voluntary payment

Voluntary payment of the fine may be made until the deadline for the defendant
to contest, in which case the fine shall be paid in the amount equal to one
tenth of the maximum fine provided for in the respective legal type, without prejudice to the fees that are due.

**Article 277**

**Notice procedure**

1. When the administrative offence consists of a reparable irregularity that does not result in losses to investors or to the securities instruments markets, the AGMVM may decide to notify the offender by means of a simple warning to rectify the irregularity within a specified time limit.

2. If the offender does not rectify the irregularity within the required time period, the proceeding of the offence shall continue its normal procedure.

3. Once the irregularity has been rectified, the process shall be closed and the notice shall become final as an enforceable judgement; the same act may not be considered again as an offence.

**Article 278**

**Summary procedure**

1. When the reduced seriousness of the offence and the reduced negligence of the agent so justifies, the AGMVM may, before formally accusing the defendant, issue a warning or impose a fine which should not exceed three times the minimum limit set out for the offence.

2. It may also be determined that the defendant adopts the legally required behaviour within the time period set by the AGMVM.

3. The decision set out in sub-article 1 shall be in writing and shall contain the identity of the defendant, a brief description of the alleged facts, a reference to the legal provisions violated and shall conclude with the warning or indication of the fine actually imposed.

4. The defendant shall be notified of the decision and informed of the right to refuse, within 5 (five) days, and of the consequences set out in the following sub-article.

5. The defendant’s refusal or silence during this time, the requirement of any supplementary action, the non-compliance provided for in sub-article 2 or the non-payment of the fine within 10 (ten) days of the notification described in
the sub-article above shall determine the immediate continuation of the offence process, with the decision described in sub-articles 1 and 3 having no effect.

6. The defendant having proceeded with the compliance set out in sub-article 2 and the payment of the fine imposed, the decision shall become final as a condemnatory decision and the same fact may not again be considered as an offence.

7. The decisions given in summary processes shall not be subject to judicial appeal.

**Article 279**

**Suspension of the sanction**

1. The AGMVM may suspend, totally or partially, the execution of the sanction, without prejudice to the payment of the costs related thereto.

2. The suspension may be conditional to the execution of certain obligations, namely those considered necessary for the regularisation of illegal situations, the remedying of damages or the prevention of dangers for the securities market or investors.

3. The suspension time period of the sanction shall be set between 2 (two) and 5 (five) years, calculated from the expiry date of the time period of the legal rejection of the condemnatory decision.

4. The suspension shall not cover costs.

5. The suspension time period having elapsed without the defendant having practised any criminal act or administrative offence as set out in this Code, and without any violation of the obligations that had been imposed on the defendant, the conviction shall cease to have effect; otherwise the imposed sanction shall be executed.

**Article 280**

**Judicial appeal**

The AGMVM shall be entitled to autonomously appeal against decisions issued in the context of proceedings for annulment permitting such appeal, as well as to reply to any appeals lodged.
Article 281
Statute of limitations

1. The statute of limitations for administrative offence proceedings shall be 5 (five) years.

2. The statute of limitations for sanctions imposed shall be 5 (five) years and shall be calculated from the day on which the decision that determined its imposition becomes res judicata.

CHAPTER III
Common provisions of crimes and administrative offences

Article 282
Personal details

1. The individual responsibility of the agents shall not be hindered by the fact that the legal type of offence requires certain personal details and these are only verified in legal persons, a related entity or one of the agents involved, nor the fact that it is required that the agent practises the act in its own interest, with the agent having acted in the interest of others.

2. The invalidity or nullity of the act that is the basis of the actions of the agent on behalf of another shall not hinder the application of the provisions of the previous sub-article.

Article 283
Concurrence of offences

If the same circumstances simultaneously constitute a crime and an administrative offence, the defendant shall be held liable for both offences and separate proceedings to be determined by the competent authorities shall be initiated.

Article 284
Duty to notify

The competent authority for the imposition of accessory sanctions for the revocation of authorisation or cancellation of the registration, if same is also not the competent entity for the practice of these acts, shall communicate to the
latter the crime or offence concerned, together with the specific facts, sanctions imposed and status of the process.

The Prime-Minister, José Maria Pereira Neves.

Secretary-General of the Government, 28 March 2012. – The Secretary General, Pedro Andrade Semedo.