REGULATION NO. 1/2012 OF THE AGMVM

PRUDENTIAL SUPERVISION

The recent international financial crisis in which we live and its effects on the financial sector gave rise to profound international reflection on the supervision carried out by the various supervisors, highlighting the need to strengthen existing mechanisms and supervisory practices in order to safeguard public interest and to protect the interests of investors. We are currently witnessing a new paradigm characterised by increased responsibilities of the entities entrusted with the task of ensuring the stability and efficiency of the system, as well as defending the rights and interests of all those involved. Cape Verde should not distance itself from this international issue and it is necessary to prevent and manage the emerging risks resulting therefrom.

As the name indicates, prudential supervision is mainly preventive and is not a substitute for the competent management and effective internal control of the entities subject to it as well as the important role played by independent auditors. The prudential supervision of stock exchanges, MTFs, settlement systems, clearing and central counterparty systems, centralised securities, collective investment institutions and managers of guarantee funds and investor compensation schemes falls under the AGMVM, pursuant to the terms of the Market Securities Code.

The International Organization of Securities Commissions (IOSCO) recommends three main objectives in relation to the regulation and supervision of the securities market: (i) protecting investors, (ii) ensuring that markets are fair, efficient and transparent, and (iii) reduction of systemic risk. Considering its future IOSCO membership, the prudential supervision exercised by AGMVM is guided by principles that are in accordance with the IOSCO guidelines: the principle of preserving the solvency and liquidity of institutions and preserving inherent risks, the principle of preventing systemic risks and the principle of monitoring the suitability of the members of the management bodies, of the persons who effectively direct the business and of the holders of qualifying holdings.
In order to ensure the proper exercise of the supervision entrusted to it, pursuant to Article 23 4) of the Securities Market Code, the AGMVM approves the following regulation:

CHAPTER I
GENERAL PRINCIPLES

Article 1
(Prudential Supervision)

The AGMVM shall be entrusted with the prudential supervision of the following entities:

a) stock exchanges, multilateral trading systems, settlement systems, clearing and central counterparty systems, central securities systems;

b) collective investment institutions; and

c) entities managing guarantee funds and investor compensation schemes.

Article 2
(Solvency and Liquidity)

Entities subject to the supervision of the AGMVM shall apply the funds at their disposal to ensure adequate levels of liquidity and solvency at all times.

Article 3
(Own Risk)

1. Entities subject to the prudential supervision of the AGMVM shall maintain risk control systems appropriate to the monitoring of risks inherent to their activities.

2. The risk control systems shall establish suitable procedures to ensure:

a) compliance with the prudential rules that have been established for the operation of the market;

b) the smooth functioning and security of their computer systems;

c) compliance with their reporting duties; and
d) the identification, management and mitigation of significant risks to the operation of the respective entity.

3. Entities subject to the prudential supervision of the AGMVM shall conduct an annual review on the adequacy and effectiveness of the risk control systems, in view of the objectives set forth in the preceding paragraph.

**Article 4**  
*(Government of the stock exchange)*

Stock exchanges shall adopt robust mechanisms of corporate governance, proportionate and appropriate to the nature and complexity of the activities they carry out, and should include the following:

a) a clear organisational structure with well-defined, transparent and coherent lines of responsibility;

b) effective processes to identify, manage, monitor and report the risks it is or might be exposed to; and

c) adequate internal control mechanisms, including sound administrative and accounting procedures, and remuneration policies and practices that are consistent with and promote sound and prudent risk management.

**CHAPTER II**

**CONTROL OF SUITABILITY**

**Article 5**  
*(Suitability of the members of the board of directors)*

1. Only people whose suitability and availability guarantee sound and prudent management, with a view to the safety of the funds entrusted to the organisation and the preservation of confidence in the financial system, may form part of the administrative or management bodies of the entities subject to the prudential supervision of the AGMVM.
2. The assessment of the suitability of board members should take into account the manner in which the person generally manages business or the profession, especially in aspects that reveal inability to decide in a thoughtful and careful manner, or the tendency not to comply promptly with obligations or to behave in a manner incompatible with the preservation of market confidence.

3. Among other exceptional circumstances, the relevance of which shall be assessed by the AGMVM in light of the preventive purposes of this Article and the criteria set out in the preceding paragraph, the following shall be considered as evidential lack of suitability for the purposes of this Regulation:
   a) The declaration of insolvency of a member of the governing body or the insolvency of the company dominated by said member or of which he was a board member, director or manager, in either case by a national or foreign judgment;
   b) The conviction in Cape Verde or abroad for theft, embezzlement, burglary, extortion, infidelity, abuse of a guarantee or credit card, issuing checks without funds, usury, insolvency due to misconduct, negligent insolvency, fraudulent bankruptcy, credit frustration, favouring creditors, illegitimate approval of public sector or cooperative goods, maladministration in an economic unit of a cooperative or public sector, forgery, deceit, bribery, corruption, money laundering, unauthorised receipt of deposits or other non-refundable funds, unlawful practice of insurance or reinsurance transactions or acts or of management of pension funds, insider trading, market manipulation of securities or for the crimes foreseen in the Commercial Companies Code;
   c) The conviction in Cape Verde or abroad for the practice of breaches of legal rules or regulations governing the activities of the securities markets.

4. For purposes of this Article, the AGMVM shall exchange information with other supervisory authorities.

5. This article and the other provisions of Chapter II shall also apply mutatis mutandis to persons who effectively direct the business of the entities subject to the prudential supervision of the AGMVM.
Article 6
(Professional Qualification)

1. The members of the administrative or management bodies shall have appropriate qualifications, namely through academic qualification or professional experience.

Article 7
(Registration)

1. The members of the administrative or management entities under the supervision of the AGMVM shall be asked to register after their appointment.

2. The application for registration shall be accompanied by the following elements:
   a) Personal information:
      (i) Name;
      (ii) Identification documents - a simple photocopy of the identification documents indicated shall be attached;
      (iii) Address;
      (iv) Email address and telephone numbers.
   b) Indication of the professional situation;
   c) Professional qualification, with the submission of a detailed and updated curriculum vitae; and
   d) Declaration that the respective member has never been convicted in any court, in Cape Verde or abroad, or that he has no case against him.

3. The AGMVM shall have a maximum period of 30 days from the date on which it receives the complete application to rule to either accept or reject the registration.

4. If nothing is reported during the period referred to above, the registration shall be considered to have been granted.
Article 8

(Accumulation of positions)

1. The AGMVM can object to the members of the administrative or management bodies exercising management functions in other entities, whether or not they are subject to the supervision of the AGMVM, if it feels that the accumulation of duties is likely to hinder the exercise of the functions that said members are already carrying out, in particular because there are serious risks of conflicts of interest or, in the case of people entrusted with the current management of entities, for not displaying sufficient availability for the performance of the job.

2. Taking into account the provision of the preceding paragraph, applicants shall notify the AGMVM of their intention at least 30 days before the date set for the start of the new functions, it being understood that in the absence of a decision within the deadline, the AGMVM shall not object to the accumulation.

CHAPTER III
INFORMATION RELATING TO THE SUPERVISED ENTITIES

Article 9

(Disclosure obligations)

1. Entities shall be required to submit to the AGMVM the information necessary to verify:
   a) their liquidity and solvency;
   b) the risks involved;
   c) the practices used to manage and control the risks to which they are or may be subject;
   d) the methodologies adopted in the assessment of their assets, in particular those that are not traded in markets with high liquidity and transparency;
   e) compliance with the standards, laws and regulations that regulate their activity;
   f) their administrative organisation;
   g) the effectiveness of their internal controls; and
h) their IT security and control processes.
2. The information referred to in the preceding paragraph shall include the
detailed annual report to be submitted to the AGMVM by 31 March each year.
3. Entities shall allow the AGMVM to inspect their establishments and to examine
documents on site; they shall also provide the AGMVM with all other elements
deemed relevant to check the matters referred to under paragraph 1 of this
Article.

CHAPTER IV
FINAL PROVISIONS

Article 10
(Entry into force)

1. This Regulation shall enter into force on the day following its publication in the
Official Bulletin.
2. The annual report referred to in paragraph 2 of Article 9 shall only be required
from the financial year of 2012 onwards and shall be submitted by 31 March
2013.