NATIONAL ASSEMBLY

LAW Nº 62/VIII/2014

Of April 23

By mandate of the People, the National Assembly hereby decrees, pursuant to article 175 b) of the Constitution, the following:

HEADING I
GENERAL PROVISIONS

Article 1
Definitions

For the purposes of this Act and other applicable laws and additional regulation:

a) "Auxiliary activities of financial activities" shall mean those activities and services which, under the law, auxiliary institutions of the financial system are authorised to carry out and provide to financial institutions, namely prospecting with the aim of attracting customers to the financial institutions, external accounting and auditing services provided to the financial institutions, credit reporting services and risk rating activities;
b) "Banking activity" shall mean the activity carried out by banks, receiving deposits or other repayable funds from the public, for on their own use, particularly in credit operations;
c) "Financial activities" shall mean banking activities of financial intermediation in insurance and financial instruments, as defined in article 20 of the Basic Law for the Financial System;
d) "Bank" shall mean the credit institution that carried out the banking activity;
e) "Autonomous guarantee" shall mean a personal guarantee from a financial institution that aims to compensate someone for a certain amount as the result of a certain event which the parties consider relevant in a contract entered into between them;
f) "Subsidiary" shall mean a legal person in relation to which another legal person, designated by the parent company, is in a control or dominant relationship pursuant to the law or regulation, considering that the subsidiary of a subsidiary is also the subsidiary of the parent company on which both of them depend;

g) “Auxiliary institutions of the financial system” shall mean public or private natural and legal persons and entities legally entitled to carry out one or more auxiliary financial activities, classified as such by law;
h) “Credit institution” shall mean financial institutions which, in addition to other financial activities, are engaged in the business of lending, listed in paragraph a), of number 2 of article 20 of the Basic Law for the Financial System;
i) “Branch” shall mean the establishment of a company which has no legal personality and which carries out directly all or some of the operations inherent in the activity of the company.

Article 2
Object and scope of application

This law regulates:

a) The process of establishment in Cape Verde of financial institutions and auxiliary institutions financial, including, where applicable, its approval and special registration with the Bank of Cape Verde;
b) The provision of services and the exercise of financial activities and operations within the territory of Cape Verde;
c) In addition, financial contracts in which one of the parties is a financial institution with its headquarters of permanent establishment in Cape Verde and the other party is a non-resident natural or legal person;
d) In addition, financial contracts in which of the parties is a natural or legal person residing in Cape Verde and the other party is a Bank abroad;
e) The supervision and penalty system relative to the activities, contracts and operations mentioned in the previous paragraphs.

Article 3
Overriding mandatory provisions

1. Regardless of the law that applies to another heading, the mandatory provisions contained in this Act apply if and to the extent that the situations, activities and acts to which they refer have a relevant connection with the territory of Cape Verde.

2. The following are considered to have a relevant connection with the territory of Cape Verde:

a) Activities and actions carried out in Cape Verde;
b) The disclosure of information accessible in Cape Verde which concerns situations, activities or acts regulated by the Cape Verdean law.

HEADING II
FINANCIAL ACTIVITY

CHAPTER I
AUTHORISATION

Section I
Authorisation of financial institutions with their headquarters in Cape Verde

Article 4
General requirements

1. Financial institutions with their headquarters in Cape Verde have to meet the following requirements:

   a) They must correspond to one of the types mentioned in the Cape Verdean law;
   b) They must take the form of a public limited company;
   c) They must have as their object the exercise of one or more financial activities;
   d) Their main and effective administrative headquarters must be located within the territory of Cape Verde;
   e) They must have robust governance arrangements, which include a clear organizational structure with well defined, transparent and consistent lines of responsibility;
   f) They must have effective processes to identify, manage, monitor and report the risks it is or might be exposed to;
   g) They must have adequate internal control mechanisms, including sound administrative and accounting procedures;
   h) They must have remuneration policies and practices that are consistent with and promote sound and prudent risk management
   i) Their shares must be held by shareholders who meet individually conditions that ensure sound and prudent management of the financial institution.
2. Unless otherwise provided by law, financial institutions shall take the form of a public limited company and the shares representative of their capital shall be nominative.
3. At the date of incorporation, the share capital must be fully subscribed and paid in an amount of no less than the legal minimum.

Article 5
Authorisation

1. The establishment of financial institutions depends on the authorisation granted on a case-by-case basis by the Bank of Cape Verde.

2. Whenever the object of a financial institution includes any brokering of financial instruments, before deciding on the application for authorisation the Bank of Cape Verde shall request information from the General Audit of the Securities Market (AGMVM - *Auditoria Geral do Mercado de Valores Mobiliários*) on the suitability of shareholders.

3. In the case referred to above, the AGMVM shall provide the above-mentioned information within one month.

Article 6
Application for authorisation

1. The application for authorisation shall be accompanied by the following elements:

   a) Description of the type of institution to be established and draft articles of association;
   b) Indication of the type of authorisation requested, whether generic or restricted, in accordance with the terms set forth in the Basic Law for the Financial System;
   c) Activity programme, geographical location, organizational structure and human, technical and material resources to be used, as well as prospective accounts for each of the first three years of operation;
   d) Identification of the founding shareholders, specifying the capital subscribed by each;
   e) Exposure based on the suitability of the shareholder structure to the stability of the institution;
   f) A declaration of commitment that, on incorporation, and as a condition thereof, the amount of share capital required by law shall be deposited in a bank in Cape Verde;
   g) Robust governance arrangements, complete and proportional to the nature, level and complexity of the activities of each financial institutions, that include:

      i. A clear organizational structure with well defined, transparent and consistent lines of responsibility;
      ii. Effective processes to identify, manage, monitor and report the risks it is or might be exposed to;
      iii. 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.

2. The following information concerning founding shareholders who are legal persons possessing having qualifying holdings in the institution to be incorporated shall also be submitted:

   a) Articles of association or its statutes and list of the members of the management board;
   b) Balance sheet and accounts of the last three years;
   c) List of the shareholders of the legal person that have qualifying holdings in it;
   d) List of companies in which the entity has qualifying holdings, as well as illustrative presentation of the structure of the group to which it belongs.

3. The submission of the elements mentioned in the previous number may be waived when the Bank of Cape Verde already has knowledge thereof.

4. Where the authorisation requested is the restricted authorisation provided for in articles 38 to 45 of the Basic Law for the Financial System, the following additional elements shall be required:

   a) Waiver referred in article 38 of the Basic Law for the Financial System, in the form approved by the Bank of Cape Verde;
   b) Indication of the currency chosen for the purpose of accounting, reporting and disclosure of financial information;
   c) Indication of the prudential regime and chart of accounts, in the case of choosing different ones from those provided for in the Cape Verdean legislation.

5. The authorisation to establish a financial institution which is the subsidiary of an authorised financial institution in a foreign country, or that is a subsidiary of the parent company under these conditions shall depend upon prior consultation with the supervisory authority of the country concerned.

6. The preceding number shall also apply when the institution to be incorporated is dominated by the same natural or legal persons that dominate an authorised financial institution in another country.

7. The Bank of Cape Verde may require applicants to provide additional information and carry out any investigations it deems necessary.

8. Should the object of application be the authorisation of a financial institution that is not a credit institution, the Bank of Cape Verde may waive the requirement of one or more of the elements referred in this article.

Article 7
Decision

The decision of the Bank of Cape Verde shall be notified to those concerned within six months of receipt of the application or, if applicable, the receipt of additional information requested from applicants, but no later than twelve months after the date of initial delivery of the request.

Article 8
Refusal of authorisation

1. The authorisation shall be refused if:

   a) The request for authorisation is not accompanied by all the necessary information and documents;
   b) The request for authorisation contains inaccuracies and falsehoods;
   c) The financial institution to be incorporated does not meet all the requirements referred in article 4;
   d) The Bank of Cape Verde is not satisfied that all shareholders meet the conditions that ensure the sound and prudent management of the financial institution;

e) The financial institution does not have enough financial and technical resources for the type and volume of transactions it intends to carry out;
f) Adequate supervision of the financial institution to be incorporated is made inviable by a close relationship between the institution and other persons;
g) Adequate supervision of the financial institution to be incorporated is made unviable by laws or regulations of a third country to which any of the persons with whom the institution has a close relationship is subject or by difficulties inherent in the application of such provisions.

2. If the application does not contain all the necessary information, the Bank of Cape Verde shall notify the applicants, before refusing authorisation, giving them a reasonable time to remedy the deficiency.

Article 9
Expiry date of the authorisation

1. The authorisation shall expire if the applicants expressly renounce it or if the institution does not commence business within six months.

2. The Bank of Cape Verde may extend the period referred to above once for an equal period, based upon a request made by the parties concerned to this effect.

3. The authorisation shall expire if the financial institution is dissolved, without prejudice to the acts necessary for its liquidation.

Article 10
Withdrawal of the authorisation

1. The withdrawal of authorisation is the responsibility of the Bank of Cape Verde.

2. A decision for withdrawal shall be reasoned and communicated to the financial institution.

3. The following shall be grounds for withdrawal of the authorisation, in addition to others legally established:

a) Having been obtained through misrepresentation, or other expediencies regardless of the penalties that may be applicable;
b) Failing to verify any of the requirements of article 4;
c) The activity carried out not corresponding to the authorised statutory purpose;
d) Termination or significant reduction in activity for more than six months;
e) Serious deficiencies in the administration, supervision or organization of the accounting of the financial institution;
f) Serious deficiencies in the internal control mechanisms, risk management or segregation of customer values, imposed by the financial institution;

g) Lack of guarantees of fulfilment of obligations to creditors and in particular in respect of funds entrusted;
h) Failure to comply with the obligations of the institution in relation to the assurance system established pursuant to article 51 of the Basic Law for the Financial System;
i) Violation of laws, regulations and ordinances related to the activity carried out, thus jeopardizing the interests of creditors or the normal functioning of the financial market;
j) Extinction of the financial institution by merger.

4. The following also constitute grounds for withdrawal of the authorisation, if deemed appropriate by the Bank of Cape Verde, according to the relevant circumstances in the case of:

a) Withdrawal of authorisation of the financial institution that has a dominant shareholding;
b) Transfer of a substantial part of the assets;
c) Adoption of behaviours or conduct that endanger their obligations faced with creditors, including depositors.

5. The withdrawal of authorisation entails the dissolution and liquidation of the financial institution.

6. The withdrawal of authorisation of the financial institutions referred in article 5 number 2 shall be immediately communicated to the AGMVM.

Article 11
Access to the insurance and reinsurance activity

Access to insurance and reinsurance activity is subject to special legislation.

Section II
Authorisation of branches of financial institutions with their headquarters abroad

Article 12
Authorisation of branches

1. The establishment of a branch is subject to authorisation to be granted on a case-by-case basis by the Bank of Cape Verde.

2. The application shall be delivered to the Bank of Cape Verde and shall include the following elements:

a) Activity programme, which shall include the type of operations to be carried out and the organizational structure of the branch, as well as a certificate stating that said operations are included in the authorisation of the financial institution;
b) Address of the branch in Cape Verde;

c) Identification of the branch managers;
d) Amount of the financial institution's own funds;
e) Solvency ratio of financial institution;
f) Detailed description of the savers guarantee schemes put in place by the participated financial institution that ensure the protection of the branch's depositors;
g) Statement of the possibility of the branch to ensure the safety of the funds entrusted to it, as well as the sufficiency of technical and financial resources for the type and volume of transactions it intends to carry out;
h) Indication of the proposed geographical location for the branch;
i) Prospective accounts for each of the first three years of activities of the branch;
j) Copy of the articles of association of the financial institution; and
k) A declaration of commitment that the amount of capital allocated to the branch as provided by law shall be deposited.

3. Authorisation may be refused in the following cases:

a) The request for authorisation does not contain all the necessary information and documents;
b) The request for authorisation contains inaccuracies and falsehoods;
c) The branch does not have enough technical and financial resources for the type and volume of transactions it intends to carry out; and
d) The Bank of Cape Verde considers the supervision system to which the financial institution is subject insufficient.

4. The provisions referred in articles 4 to7 shall apply to branches, pursuant to a notice from the Bank of Cape Verde.

Article 13
Notice of changes

The financial institution shall inform the Bank of Cape Verde in writing, at least one month in advance, of any change to the information referred in paragraphs a), b), c) and f) of number 2 of article 12 .

Article 14
Capital allocated

1. The capital necessary for the proper exercise of its business shall be allocated to the operations to be carried out by the branch, to be determined by the Bank of Cape Verde on a case-by-case basis.

2. The capital shall be deposited with the Bank of Cape Verde prior to registration of the branch.

3. The financial institution shall be responsible for the operations conducted by its branch in Cape Verde.

Article 15

Withdrawal or expiry of authorisation in the country of origin

If the Bank of Cape Verde is informed that in the country of origin the authorisation of the financial institution with a branch in Cape Verde or providing services here has been withdrawn or expired, it shall immediately withdraw the authorisation and registration of the subsidiary and take appropriate action to prevent the entity concerned from initiating further transactions and to safeguard the interests of depositors and other creditors.

Article 16

Withdrawal and expiry of authorisation of branches

The authorisation granted to branches shall expire and may be revoked by the Bank of Cape Verde, respectively in situations and on the grounds referred in Articles 9 and 10, as applicable.

Article 17

Conversion into a subsidiary

The Bank of Cape Verde may require a financial institution that has been one or more branches in the Cape Verde convert into a subsidiary if:

a) There is a substantial change in the shareholder or management structure of the financial institution that, in the opinion of the Bank of Cape Verde, endangers the sound and prudent management of the branch;
b) There is a significant decline in the financial position of the foreign institution or if it is sanctioned by the authority of the country of origin for significant violations of the law or regulations or the adoption of practices contrary to sound and prudent management;
c) The Bank of Cape Verde considers the supervision of the country of origin inadequate.

Section III

Representative offices

Article 18

Registration and requirements

1. The establishment and operation in Cape Verde of representative offices of financial institutions with their headquarters abroad shall depend, without prejudice to the applicable legislation on business registration, on prior registration with the Bank of Cape Verde, via the presentation of a certificate issued by the legislation supervisory authorities of the country of origin, specifying the rules of the institution by reference to the law applicable to it.

2. The start-up of the activity of representative offices shall take place within three months following registration with the Bank of Cape Verde, which may, should there are reasonable grounds, extend the term for the same period.

3. The managers of representative offices shall have sufficient powers to deal with and resolve all matters relating to their activity in the country.

Article 19
Scope of activity and forbidden operations

1. The activity of representative offices shall follow the strict control of the financial institutions they represent and they shall only be allowed to look after the interests of these institutions in Cape Verde and report on the conduct of operations in which they intend to participate.

2. Representative offices are especially prohibited from:

a) Directly performing operations that fall within the scope of the activities of financial institutions;
b) Acquiring shares or holdings of any national companies;
c) Acquiring property that is not essential for the establishment and operation.

CHAPTER II
REGISTRATION

Article 20
Subjection of registration

1. Financial institutions may not start their activity before they are registered with the Bank of Cape Verde.

2. Where the Object of financial institutions includes the brokering of financial instruments, the Bank of Cape Verde shall communicate and provide the AGMVM with the registration referred in the previous numbers as well as the relevant endorsements, amendments or cancellations.

Article 21
Elements subject to registration

1. The registration of financial institutions with their headquarters in Cape Verde shall include the following elements:

a) Name, object and headquarters;
b) Date of incorporation and start-up of activity;
c) Share capital subscribed and paid up;
d) Identification of the shareholders with qualifying holdings;

e) Identification of the members of the governing boards;
f) Delegation of management powers;
g) Place and date of the creation of subsidiaries, branches and agencies;
h) Shareholder agreements concerning the exercise of voting rights, under penalty of their ineffectiveness;
i) Authorisation by the Bank of Cape Verde; and
j) Changes to the elements of the previous paragraphs.

2. The registration of the shareholder agreements referred in paragraph h) of the previous number may be requested by either party.

3. The Bank of Cape Verde may, by notice, establish the subjection of other elements to registration.

Article 22
Authorised institutions abroad

1. The registration of authorised financial institutions abroad who have a branch or representative office in Cape Verde includes the following elements:

a) Name and registered office;
b) Date as from which it can be established in Cape Verde;
c) Operations which the institution can carry out in the country of origin and operations that it intends to carry out in Cape Verde;
d) Location of branches, agencies and representative offices in Cape Verde;
e) Capital allocated to the operations to be carried out in Cape Verde;
f) Identification of the managers of the branches and representative offices;
g) Changes to the elements referred in the previous paragraphs.

2. The Bank of Cape Verde may define, in a notice, other elements subject to registration.

Article 23
Registration of the members of the management and supervisory boards

1. The registration of the members of the management and supervisory boards, including non-executive directors, shall be requested after their appointment, upon application by the financial institution.

2. The financial institution, or any interested party, may request provisional registration prior to their appointment. Conversion to permanent registration shall be requested within thirty days after the appointment, subject to expiry.

3. The conversion of the provisional registration into permanent registration with the Bank of Cape Verde is a prerequisite for the performance of duties of the members of the boards referred in number 1.

4. In the case of renewal, said renewal shall be entered in the register, at the request of the financial institution.

5. The lack of suitability, experience or availability of the members of the management or supervisory boards shall be grounds for refusal of registration.

6. Refusal of registration on grounds of lack of suitability, experience or availability of the members of the management or supervisory board shall be communicated to stakeholders and to the financial institution.

7. Failure to register does not determine the invalidity of the acts committed by the person concerned in the exercise of their duties.

8. The preceding numbers shall apply, *mutatis mutandis*, to the managers of the branches and representative offices referred in article 18.

9. Whenever the object of the financial institution includes any brokering of financial instruments, before deciding the Bank of Cape Verde shall ask the AGMVM for information, providing, where appropriate, such information within fifteen days.

Article 24
Special registration applicable to insurance and reinsurance companies

The special registration to be made with the Bank of Cape Verde by insurance and reinsurance companies based in Cape Verde of their branches, offices and agencies abroad is subject to special legislation.

Chapter III
VICISSITUDES

Article 25
Statutory changes

1. Changes to the articles of association of financial institutions regarding the following matters shall be subject to the prior authorisation of the Bank of Cape Verde:

   a) Name;
   b) Object;
   c) Location of the headquarters, unless the change is within the same municipality;
   d) Share capital;
   e) Creation of categories of shares or changes to existing categories;
   f) Management or supervisory structure;
   g) Limitation of the powers of the management or supervisory boards;
   h) Dissolution.

2. Changes to the object involving a change of the type of institution are subject to the rules set out in Chapters I and II of this heading. Other changes shall be deemed to have been

authorised if, within thirty days of the date of receipt of the respective request, the Bank of Cape Verde has no objection.

Article 26
Merger and demerger

1. The merger and demerger of financial institutions shall depend on the prior authorisation of the Bank of Cape Verde.

2. The rules set out in Chapters I and II of this heading shall apply in this case.

Article 27
Voluntary dissolution

1. Any proposed voluntary dissolution of a financial institution shall be communicated to the Bank of Cape Verde at least ninety days before the date of its execution.

2. The preceding number shall apply to projects for the closure of branches of financial institutions with their headquarters abroad.

CHAPTER IV
MANAGEMENT AND SUPERVISION

Article 28
Suitability of the members of the management and supervisory boards

1. The members of the management and supervisory board of a financial institution, including non-executive directors, shall be competent persons whose reputation and availability ensures sound and prudent management, in particular to ensure the safety of the funds entrusted to the institution in question.

2. In particular, and for the purposes of the preceding number, the following persons are not considered suitable:

   a) Those who have been dismissed of their duties of financial institutions by the Bank of Cape Verde;
   b) Those who have been convicted of a crime which is punishable with imprisonment of one year or more, without replacement by fine;
   c) Those who have been declared insolvent in the last ten years;
   d) Those who have been legally prevented from exercising an activity related to the financial system;
   e) Those who have been legally
   f) Anyone who was a director of a financial institution whose authorisation was revoked or whose resolution was initiated during their mandate.

3. The establishment of additional suitability criteria and the assessment of the suitability of the persons referred in number 1 shall fall under the responsibility of the Bank of Cape Verde, as defined in a notice.

Article 29
Professional qualification

1. The members of the board of directors who are responsible for ensuring the ongoing management of the financial institution, the members making up the supervisory board and the certified auditors who are responsible for the auditing and legal certification of the accounts shall be suitably qualified, either through academic qualifications or professional experience.

2. Appropriate qualifications through professional experience shall be presumed to exist when the person in question has previously exercised in a competent manner positions of responsibility in the financial field.

3. The duration of previous experience and the nature and degree of responsibility of the duties previously exercised shall be in accordance with the characteristics and size of the financial institution in question, as established by the Bank of Cape Verde in a notice.

4. The fulfilment of the requirement of appropriate experience may be confirmed in advance with the Bank of Cape Verde.

Article 30
Lack of requirements of the management and supervisory boards

1. If for any reason the legal or statutory requirements of the normal functioning of the management or supervisory boards are no longer met, the Bank of Cape Verde shall set a deadline for the composition of the board in question to be changed.

2. Should the situation not be remedied within the prescribed period, the authorisation may be revoked in accordance with article 10.

Article 31
Accumulation of responsibilities

1. The Bank of Cape Verde may object to the fact that members of the management boards of financial institutions perform management functions in other companies, if it understands that the accumulation of responsibilities is likely to hinder the exercise of the duties that they are already carrying out, in particular as there may be serious risks of conflict of interest, or, in the case of people who are responsible for the daily management of the institution, as they may not have enough availability to exercise the position.

2. The preceding number shall not apply to the accumulation of responsibilities in boards of financial institutions or other entities that are included in the same scope of supervision

on a consolidated basis, under the terms of being regulated by the Bank of Cape Verde in a notice.

3. In the case of duties to be exercised in an entity subject to registration with the Bank of Cape Verde, the countervailing power shall be exercised in the context of the registration process regulated in article 20 and in other cases, interested parties shall inform the Bank of Cape Verde of their intention at least thirty days before the date scheduled for the beginning of their new duties, it being understood that, failing a decision within that period, the Bank of Cape Verde shall not preclude the accumulation.

Article 32
Governance of financial institutions

1. Financial institutions should be provided with mechanisms and procedures of good corporate governance, in proportion to their size, internal organization and scope and complexity of their activities.

2. For purposes of the preceding number, financial institutions shall:

a) Have adequate internal control mechanisms, including sound administrative and accounting procedures;
b) Adopt a policy to manage and prevent conflict of interests;
c) Have remuneration policies and practices that are consistent with and promote sound and prudent risk management and the long-term objectives of the institution.

Article 33
Code of governance of financial institutions

1. The Bank of Cape Verde establishes a Code of Governance for Financial Institutions through which it fixes the applicable recommendations, including the following:

a) Supervision;
b) Independence of the directors and members of the supervisory board;
c) Operation of the board of directors and executive committee;
d) Conflict of interests;
e) Committees of the board of directors;
f) Remuneration;
g) Audit;
h) Internal control mechanisms;
i) Provision of information on corporate governance;
j) Internal whistle blowing.

2. Financial institutions shall prepare and submit to the Bank of Cape Verde an annual report on corporate governance, describing the degree of compliance with the Code of Governance of Financial Institutions, according to the model indicated by notice specifying in detail the grounds for the possible rejection of some recommendations.

3. Financial institutions subject to the obligation under article 131 of the Securities Market Code shall also be subject to the obligation referred in the preceding number, without prejudice to the opportunity of preparing and submitting a single report containing information on the degree of compliance with the recommendations set out in the Code of Governance of Financial Institutions Code with detailed information on the structure and practices of corporate governance listed in number 1 of article 131 of the Securities Market Code.

Article 34
General duties of the members of their corporate boards

1. The directors of financial institutions shall observe:

   a) Duties of care, revealing availability, expertise and knowledge of the activity of the institution appropriate to their duties and employing in this context the diligence of sound, prudent, careful and orderly management; and
   b) Duties of loyalty, in the interest of the institution, serving the interests of financial stability of the institution and the financial system and balancing the interests of depositors, customers and other subjects relevant to the sustainability of the institution.

2. Members of statutory boards with supervision duties shall observe duties of care, employing for this purpose high standards of professional diligence and duties of loyalty, in the interest of the institution.

Article 35
Board of directors of banks

1. The board of directors of banks shall have at least five members.

2. The composition of the board of directors shall safeguard, in an effective and judicious manner, the maximum realisation of its corporate object and shall include the appropriate number of independent members as may be fixed by notice from the Bank of Cape Verde.

3. The board of directors is responsible for establishing, implementing and reviewing the bank's policies and procedures, including the risk management, internal auditing and compliance control policies.

4. The action of the board shall be supplemented by committees in central areas of the governance of the banks, including the management of risks and conflicts of interest.

Article 36
Supervisory board

The composition of the supervisory board of banks shall include an adequate number of independent members as may be fixed by notice from the Bank of Cape Verde, without

prejudice to the application, to all members of the supervisory board, of the rules regarding their requirements and incompatibilities established in this Act and in the Commercial Companies Code.

Article 37
Segregation between supervision and statutory audits

1. In the governance of banks:

   a) The certified auditor or society of certified auditors responsible for conducting the audit and the legal certification of accounts may not be a member of the supervisory board;
   b) The supervisory board shall include at least one member who has the necessary literary qualifications to perform his/her duties and knowledge of auditing or accounting.

2. The Bank of Cape Verde may establish rules, through a notice, on the independence of certified auditors and members of the supervisory boards.

Article 38
Management and supervision of insurance public limited companies

The management and supervision of insurance public limited companies is the object of special legislation, without prejudice to the provisions of this act, *mutatis mutandis* and to the extent that it does not contradict the special legislation.

CHAPTER V
EXERCISE OF THE ACTIVITY

Section I
Prudential rules and requirements

Article 39
Regulatory powers

1. The Bank of Cape Verde is responsible for defining, by notice, the relationships to be observed between balance sheet items and for setting prudential limits to transactions that financial institutions are authorised to carry out, including solvency and liquidity ratios, in both cases either individually or in consolidated terms, and in particular:

   a) The ratio of capital and the total assets and off-balance accounts, weighted or not by risk coefficients;
   b) Limits to the underwriting of issues of securities for indirect subscription or to the guarantee of the placement of the issues of the same securities;
   c) The limits and forms of coverage of outside resources and of any other liabilities faced with third parties;

d) Limits to the concentration of risks in order to reduce the risk of damaging losses to the solvency of financial institutions resulting from excessive exposure to a single customer or group of customers connected to each other or any other form of exposure or group of exposures that result in excessive risk concentration;
e) The minimum limits for provisions for hedging credit risk or any other risks or burdens;
f) The terms and methods of amortization of the plant and equipment, of the costs installation, goodwill and others of a similar nature.

2. The Bank of Cape Verde, by notice, shall set the elements that can integrate the own funds of financial institutions and branches referred in article 12, defining the characteristics they should have.

3. The Bank of Cape Verde may determine by notice, general or specific criteria for the holding and application of the reserves mentioned in this Section.

Article 40
Minimum share capital

1. The Bank of Cape Verde shall be responsible for fixing, by notice, the minimum share capital of financial institutions.

2. Financial institutions incorporated by changing the object of a company, by merging two or more, or by demerger, shall have at the time of incorporation no less than the minimum established in accordance with the previous number.

Article 41
Capital (Equity)

1. Capital may not fall below the amount of share capital required under article 40.

2. Without prejudice to the penalties as are applicable, should capital fall below that amount, the Bank of Cape Verde may, where the circumstances warrant it, grant the institution a limited period, which may not in any case exceed sixty days, to rectify the situation.

3. At the request of interested parties, the term referred in the preceding number may be extended by the Bank of Cape Verde, in duly justified exceptional circumstances, for a further period of thirty days.

4. The elements that integrate capital should be able to be used to cover risks or losses in financial institutions, being distinguished in their quality according to the respective characteristics of permanence, degree of subordination, capacity and timing of the absorption of losses and, where applicable, the possibility of deferral or cancellation of their compensation.

5. The provisions of article 137 of the Commercial Companies Code shall not apply to financial institutions.

Article 42
Reserves

1. A fraction of no less than 10% of net income earned in each year by financial institutions shall be allocated to the creation of a legal reserve, up to a limit equal to the amount of the share capital or the sum of free reserves and retained earnings, if higher.

2. Financial institutions shall also set up special reserves to reinforce the net equity or to cover losses that the account of profits and losses is unable to bear.

Article 43
Relationship between holdings and capital

1. Credit institutions may not hold in the equity of a company a qualifying holding which amount exceeds 15% of the capital of the credit institution.

2. The total amount of qualifying holdings in companies may not exceed 60% of capital of the participating credit institution.

3. To calculate the limits established in the preceding paragraphs the following shall not be taken into account:

   a) Shares held temporarily due to underwriting of the issue, during the normal period of the issue and within the limits set in accordance with article 39;
   b) Shares or other equity held by the company but on behalf of third parties, without prejudice to the limits set forth in article 39.

4. The limits set in numbers 1 and 2 shall not apply when the surplus holdings relative to those limits are 100% hedged by capital and these are not included in the calculation of the solvency ratio and other ratios or limits that have the own funds ratio by reference, unless the Bank of Cape Verde justifiably opposes this exception.

5. If there are surpluses of both the limits referred to above, the amount to be hedged by own funds shall be the highest of these surpluses.

6. The provisions in this article shall not apply to holdings in financial institutions.

Article 44
Relationship between holdings and the capital of investee companies

1. Credit institutions may not hold, directly or indirectly, for a consecutive or interpolated period of more than three years, a holding in a company granting them more than 25% of the voting rights, corresponding to the share capital of the investee company.

2. An indirect holding is deemed to be the holding of shares or other equity capital by persons or under conditions that determine assimilation of voting rights for the purposes of qualifying holdings.

3. The limit referred in number 1 shall not apply to the holdings of a credit institution in financial institutions and holding companies that hold only equity investments in financial institutions.

Article 45
Duty of disclosure of qualifying holdings

1. Natural or legal persons who directly or indirectly intend to acquire a qualifying holding in a financial institution shall give advance notice to the Bank of Cape Verde of their intention.

2. For the purposes of the previous number, a qualifying holding is deemed to be a shareholding that directly or indirectly exceeds 5% of the share capital or voting rights of the institution.

3. Acts involving an increase of a qualifying holding shall also be communicated to the Bank of Cape Verde in advance whenever they may result in a percentage that is equal to or exceeds any of the thresholds of 10%, 20%, 1/3 or 50% of the capital or voting rights in the participated institution, depending on the cases, or when the said company becomes the subsidiary of the acquirer.

4. The communication provided for in the preceding numbers shall be made whenever said initiative or set of initiatives proposed by the person in question may result in any of the situations indicated, even if the result is not guaranteed beforehand.

5. The Bank of Cape Verde shall establish by notice the elements and information that must accompany the communication provided for in numbers 1 and 3.

6. The Bank of Cape Verde shall inform the proposed acquirer in writing of the receipt of the communication if it contains all the required elements and information and of the end date of the period referred in number 4 of article 47, within two working days of the date of receipt of said communication.

7. If the communication made pursuant to this article is not submitted in full, the Bank of Cape Verde shall inform the proposed acquirer in writing of the missing elements or information within two working days of the date of receipt of such communication.

8. The Bank of Cape Verde shall establish by notice the criteria for calculating qualifying holdings.

Article 46
Officious statement

1. The Bank of Cape Verde may at any time and regardless of any other measures provided for in the law declare that any holding in the capital or voting rights of a financial institution is a qualified holding, in relation to which it becomes aware of relevant acts or facts whose communication to the Bank has been omitted or incorrectly made by the owner.

2. The Bank of Cape Verde may also, at any time, declare that a holding in the equity capital or voting rights of a financial institution shall be considered a qualifying holding, where it has knowledge of acts or facts that may alter the influence of the holder in the management of the participated company.

3. The consideration referred in the preceding number may be made on the initiative of the interested parties, in which case the decision of the Bank of Cape Verde shall be taken within thirty days of receipt of the request.

Article 47
Assessment

1. The Bank of Cape Verde may oppose the project if it is not satisfied that the proposed acquirer meets conditions that ensure the sound and prudent management of the financial institution or if the information provided by the proposed acquirer is incomplete.

2. For purposes of the preceding number, in assessing the conditions that ensure the sound and prudent management of the financial institution, the Bank of Cape Verde shall take into account the suitability of the proposed acquirer, their likely influence on the financial institution and the financial soundness of the project, depending on all of the following criteria:

   a) The reputation of the proposed acquirer, especially taking into account the provisions of article 28, in the case of a natural person;
   b) The reputation and professional qualification of the members of the board of directors of the financial institution, to be designated as a result of the proposed acquisition, pursuant to the provisions of articles 28 and 29;
   c) The financial soundness of the proposed acquirer, in particular depending on the type of business pursued or to be pursued in the financial institution;
   d) Whether the financial institution is able to continuously meet the applicable prudential requirements, taking into special consideration, when it forms part of a group, the existence of a structure that allows the exercise of effective supervision, the effective exchange of information between the competent authorities and the resolution of the division of responsibilities between them;
   e) The existence of reasonable grounds to suspect that, in relation to the planned acquisition, an operation of money laundering took place, is taking place or was

attempted, within the meaning of the legislation governing this issue, or that the proposed acquisition could increase the risk of its occurrence.

3. The Bank of Cape Verde may ask the proposed acquirer, at any time, for additional elements and information as well as make the inquiries it deems necessary.

4. Notwithstanding the provisions of numbers 5 and 6, the Bank of Cape Verde shall inform the proposed acquirer of its decision within sixty working days of the date on which the information referred in number 5 of article 45 was reported.

5. The request for additional elements or information by the Bank of Cape Verde, in writing, by the 50th working day of the period referred in the preceding number shall suspend the period of assessment, between the request date and the date of receipt of the response of the proposed acquirer.

6. The suspension of the period provided for in the preceding number may not exceed thirty days.

7. The Bank of Cape Verde shall inform the proposed acquirer in writing of the receipt of the elements and information referred in number 5 and of the new end date of the period referred in number 4, within two working days of the receipt of said elements and information.

8. Should it decide to oppose the project, the Bank of Cape Verde:

a) Shall inform the proposed acquirer in writing of its decision and the reasons for it, within two working days of the date of decision and before the expiry of the period referred in number 4;
b) May disclose to the public the reasons for the opposition, on its own initiative or at the request of the proposed acquirer.

9. The Bank of Cape Verde shall notify the proposed acquirer and, should it not be opposed, it may fix a reasonable period for the completion of the proposed transaction, it being understood that, where nothing is said in this respect, the period shall be six months.

Article 48
Inhibition of voting rights

1. Notwithstanding other applicable penalties and except as provided in the following paragraph, the Bank of Cape Verde shall determine the inhibition of the exercise of the voting rights implicit in a qualifying holding, as necessary and appropriate to prevent the influence in management that was obtained through the act which resulted in the acquisition or increase of said holding, provided that any of the following situations apply:

a) The interested party did not comply with the notification obligation established in article 45;
b) The interested party acquired or increased the qualified holding after completing the notification under article 45, but before the Bank of Cape Verde announced its decision under article 47;
c) The Bank of Cape Verde opposed the proposed acquisition or increase of the holding announced.

2. If, in the situations referred in paragraph a) above, the communication is made before the inhibition of voting rights has been decided upon, the Bank of Cape Verde shall proceed in accordance with the powers conferred on it by article 47 and if said communication is made after the inhibition decision, the prohibition shall cease if the Bank of Cape Verde does not oppose it.

3. In any of the cases provided for in the preceding numbers, the Bank of Cape Verde may instead determine that the inhibition shall fall on entity that directly or indirectly has voting rights in the participated financial institution if such measure is deemed sufficient to ensure the conditions for sound and prudent management in the latter and does not involve severe restriction of the exercise of other economic activities.

4. The Bank of Cape Verde shall also determine the extent to which the inhibition covers the voting rights exercised by the participated company in other financial institutions with which it is in a direct or indirect control or dominant relationship.

5. The decisions taken under the preceding numbers shall be communicated to the party concerned, in general terms, and communicated to the board of directors of the participated financial institution and to the chairman of the respective shareholder meeting, accompanied, in relation to the latter, by the determination that he shall prevent the exercise of inhibited voting rights, according to the number below. The decisions shall also be communicated, where the object of the financial institution includes some brokering activity in financial instruments, to the AGMVM.

6. The chairman of the general assembly to whom the decisions referred in the preceding number are communicated shall, in the exercise of his/her functions, ensure that inhibited voting rights are not in any event exercised at the shareholders meeting.

7. If, notwithstanding the preceding number, it was found that voting rights subject to inhibition were exercised, the deliberation is voidable unless it is proved that said deliberation would have been taken and would have been identical even if said rights had not been exercised.

8. Annulment can be contested under general terms, or by the Bank of Cape Verde.

9. If the exercise of the voting rights covered by the inhibition was instrumental in the election of the administrative or supervisory board, the Bank of Cape Verde shall, pending action for annulment of its decision, refuse the respective records.

Article 49
Inhibition for supervening reasons

1. The Bank of Cape Verde, on the basis of relevant facts, which come to its attention after the creation or increase of a qualifying holding and which create the justified fear that the influence exercised by the holder could impair the sound and prudent management of the participated financial institution, may determine inhibition of the exercise of the voting rights of the same shareholding.

2. The provisions of numbers 4 and following of article 48 shall apply, *mutatis mutandis*, to decisions taken pursuant to number 1.

Article 50
Decrease in shareholding

1. Natural or legal persons who intend to dispose of qualifying holdings in a financial institution, or decrease them so that the percentage of voting rights or capital held by them decreases to less than 20%, 1/3 or 50% of the threshold, or in such a way that the financial institution would cease to be its subsidiary, must first inform the Bank of Cape Verde and communicate the new value of their shareholding.

2. If there is a reduction of a shareholding to less than 5% of the capital or voting rights of the participated financial institution, the Bank of Cape Verde shall notify the holder within thirty days if it considers that the shareholding resulting therefrom is a qualifying holding.

Article 51
Communication by financial institutions

1. Financial institutions shall inform the Bank of Cape Verde of the changes referred in articles 45 and 50, as soon as they have knowledge of them.

2. In April of each year, financial institutions shall inform the Bank of Cape Verde of the identity of the holders of qualifying holdings, specifying the share capital and voting rights corresponding to each share.

Article 52
Credit to holders of qualifying holdings

1. The amount of credit granted in any form or modality, including the provision of guarantees, to persons who directly or indirectly hold a qualifying holding in a credit institution and the company that said persons directly or indirectly dominate, or with whom they are in a group relationship, may not at any time and as a whole exceed 10% of the own funds of the institution.

2. The total amount of credit granted to all qualifying shareholders and the companies referred in the preceding number may not at any time exceed 30% of the own funds of the credit institution.

3. The operations referred in the preceding numbers must be approved by a qualified majority of at least two thirds of the members of the board of directors and the assent of the supervisory board of the credit institution.

4. The granting of credit shall be considered indirect when the beneficiary is the spouse or first degree relative of any of the holders of qualifying holdings or a company directly or indirectly controlled by any or some of those persons. Such consideration may be rebutted before the granting of credit, before the board of directors of the respective credit institution, which is responsible for such verification, subject to prior notification to the Bank of Cape Verde pursuant to the procedure to be defined by notice.

5. For the purposes of this article, the acquisition of shares in companies or other collective boards referred in the preceding numbers shall be deemed to be equivalent to the granting of credit.

6. This article shall not apply to the granting of credit to financial institutions or holding companies that are included in the scope of supervision on a consolidated basis to which the credit institution concerned is subject, or to managing companies of pension funds, brokers and other insurance brokers that dominate or are dominated by any entity included in the same scope of supervision.

7. The amounts of credit referred in this article and in number 2 of article 80 are always aggregated for purposes of calculating the respective limits.

Article 53
List of shareholders

1. Up to five days before the general assembly of financial institutions, the list of shareholders shall be published in two widely read newspapers in the location of the headquarters, with details of their holdings in the capital.

2. The list need only include shareholders whose holdings exceed 2% of the share capital.

3. The preceding numbers shall not apply if the general meetings are held under the provisions of article 151 of the Commercial Companies Code.

Article 54
Acquisition of property

1. Credit institutions may not acquire property that is not essential to their establishment and daily operations or to the furtherance of their object, unless authorised by the Bank of Cape Verde.

2. The Bank of Cape Verde shall determine the standards, namely accounting standards, to be observed by the credit institution in the acquisition of property.

Article 55
Ratio of fixed assets and purchase of equities

The Bank of Cape Verde may specify by notice the limitation to the value of fixed assets of credit institutions, as well as the total value of shares or other equity capital of any companies not covered in said assets, which credit institutions may hold.

Article 56
Acquisitions in repayment of lending

The limits laid down in articles 43 and 44 and the restriction in article 54 may be exceeded as a result of acquisitions in repayment of lending, and the resulting situations shall be settled within a period of two years which, with reasonable grounds, may be extended by the Bank of Cape Verde, under the conditions determined by it.

Article 57
Accounting standards and publications

1. It shall be incumbent upon the Bank of Cape Verde to establish accounting standards for institutions subject to its supervision, in accordance with internationally accepted standards and accounting principles, and to define the elements that these institutions must send to it and those that must be published.

2. Financial institutions shall organise consolidated accounts in accordance with national law.

3. Institutions supervised by the Bank of Cape Verde shall publish their accounts in accordance with the terms and frequency as defined in a notice of the Bank of Cape Verde, which may demand their legal certification.

Article 58
Duty to submit recovery plans and resolution

1. Banks shall submit to the Bank of Cape Verde:

   a) A recovery plan, with the aim of identifying the measures that the institution has implemented and those that are likely to be taken to timely correct a situation of financial distress, as defined in article 150, number 2, or the risk that this situation may occur; and
   b) A resolution plan, with the aim of providing the necessary information to assure the Bank of Cape Verde of the possibility of making an orderly resolution of the institution, should the assumptions for the application of resolution measures be met.

2. The Bank of Cape Verde shall define, by notice, the contents of the plans referred in number 1, as well as other additional rules necessary to implement this article.

3. The plans under number 1 shall be approved by the board of directors of the bank, the contents of which may not be disclosed to any natural or legal person, including the bank's shareholders, even in the case of an institution listed in a regulated market, with the exception of those persons involved in their development and adoption.

4. The plans under number 1 shall be revised by the banks:

a) At intervals of no less than one year, as defined by notice of the Bank of Cape Verde;
b) Upon verification of any matter related with the legal and corporate organization, with the operational structure, with the business model or with the financial situation of the institution that may have a material impact on the execution of the plans;
c) When there is any change in the assumptions used in their preparation that may have a material impact on the implementation of the plans; and
d) Whenever the Bank of Cape Verde so requests, based in paragraphs b) or c).

5. Notwithstanding the provisions of number 1, the parent company of a group subject to consolidated supervision shall submit to the Bank of Cape Verde a recovery plan and a resolution plan, using as a reference all entities integrated in its scope of supervision on a consolidated basis.

6. The provisions of numbers 2 to 4 and article 98 shall apply, *mutatis mutandis*, to the plans provided for in the preceding number.

7. The contents of the plans submitted pursuant to this article shall not be binding on the Bank of Cape Verde or prevent it from taking any measure provided for by law and shall not give banks and third parties any right to implement the measures therein.

Article 59
Elements of the recovery plan

The recovery plans referred in paragraph a) of number 1 and number 5 of article 58 shall include the following information:

a) Mechanisms to strengthen the bank's own funds;
b) Measures to ensure that the bank has adequate access to enough financial resources to develop its business and meet its obligations, including by demonstrating the feasibility of its financing structure, in the short and long term;
c) Mechanisms and measures to reduce risk and indebtedness of the bank;
d) preparatory mechanisms to facilitate the disposal of assets or part of the business of the bank in an appropriate timeframe, with the aim of correcting the situation of financial insufficiency, including the identification of assets or categories of assets that may be sold in a short period of time;
e) Where applicable, measures contracted with a view to providing intra-group financial support;

f) Other information determined by the Bank of Cape Verde by notice.

Article 60
Elements of the resolution plan

The resolution plan referred in paragraph b) of number 1 and number 5 of article 58 shall include the following information:

a) A detailed description of the legal and corporate structure of the bank and the group of which it forms part;
b) A description of the operational structure of the bank and the group of which it forms part;
c) Identification of all activities undertaken by the bank and by the group of which it forms part as well as the identification of the entities that carry out said activities, including the identification of key economic functions with potential systemic impact and related supporting infrastructure;
d) Identification of the mechanisms in place to ensure prompt and effective operation of the guarantee system should the respective assumptions be met;
e) A description of possible resolution measures should the respective assumptions of application be met;
f) Other information determined by the Bank of Cape Verde by notice.

Section II
Rules of conduct

Article 61
Powers of the Bank of Cape Verde

The Bank of Cape Verde may determine by notice rules of conduct it deems necessary to complement and further develop those set out in this Section.

Article 62
Technical competence

Financial institutions and their employees must ensure in all activities they engage in high levels of technical competence, guaranteeing that their business organization operates with enough human and material resources to ensure appropriate conditions of quality and efficiency.

Article 63
Information duties

1. Financial institutions shall provide, in regard to the services they provide, regardless of whether the services are requested or actually provided, all necessary information to make an informed and reasoned decision, including in particular information relating to

the proposed financial products, the compensation offered in the funds received, the special risks involved and the cost of the service to be provided.

2. Particularly in the context of lending, institutions authorised to grant credit shall provide customers, before the conclusion of the credit agreement, with appropriate information, on paper or another durable medium, on the conditions and total cost of credit, their obligations and the risks associated with lack of payment as well as ensure that companies that mediate the granting of credit provide said information under the same terms.

Article 64
Duties of care

1. In credit agreements, financial institutions shall adequately clarify their customers in order to enable them to assess whether the proposed agreement suits their needs and financial situation, and they shall in particular provide them with the pre-contractual information provided for in the preceding article, explain the essential characteristics of the products offered as well as describe the specific effects resulting therefrom for customers, including the consequences of their failure to pay.
2. Such information shall be provided prior to the conclusion of the credit agreement and presented to the customer in a clear, concise and readable form on a reproducible durable medium.

Article 65
Duty to communicate

1. Where, for any reason, a credit institution is in a situation of financial distress, as defined in article 150, number 2, or at risk of being subject to a situation of financial distress, the management or supervisory board shall immediately inform the Bank of Cape Verde thereof.

2. The management and supervisory boards of the credit institution shall also notify the Bank of Cape Verde of the following situations, even if they consider that they would have no impact on the financial stability of the institution:

   a) Risk of violation of prudential standards and limits;
   b) Accelerated or substantial reduction of the outstanding amounts of deposits;
   c) Materially significant devaluation of the institution's assets or important material losses in other liabilities of the institution, even without immediate recognition in the financial statements;
   d) Risk of failure of the institution to have liquid assets to meet its obligations, to the extent that they become due;
   e) Difficulties in funding to meet the needs of their cash balances;
   f) Difficulties in the provision of funds by shareholders for the purpose of conducting a capital increase, when it is necessary or desirable to comply with legal or regulatory requirements;

g) Occurrence of legal and regulatory changes, in Cape Verde or abroad, with significant impact on the activities of the institution;
h) Occurrence of relevant events with the potential negative impact on earnings or equity, in particular those relating to:

   i. The failure of a counterparty to meet its financial commitments to the institution, including possible restrictions on transfer payments from abroad;
   ii. Unfavourable movements in the market price of financial instruments valued at fair value, caused in particular by fluctuations in interest rates, exchange rates, stock prices, credit spreads, commodity prices;
   iii. Adverse movements on interest rates on the bank portfolio, due to the lag of maturities or changing on expiry dates of interest rates, the lack of perfect correlation between rates received and paid on different instruments, or the existence of included options on financial instruments of the balance sheet, or off-balance sheet elements;
   iv. Adverse exchange rate elements of the bank portfolio, resulting from changes in exchange rates used to translate into the functional currency or by altering the competitive position of the institution due to significant fluctuations in exchange rates movements;
   v. Misjudging on analysis, legal or own settlement of transactions, internal and external fraud or inoperability of infrastructure.

i) Adverse effects on pension and other post-employment benefits as well as the equity value of pension funds used to finance these responsibilities, when associated to exact benefit plans;
j) Existence of, tax, legal or reputational, material contingencies or, contingencies resulting from the application of measures or sanctions by administrative or judicial authorities in Cape Verde or abroad.

3. The members of the Board of Management and of the Board of Supervision are individually bound to the communication referred in the preceding numbers, and must do it by themselves, if the corresponding board fails to comply with this duty of communication.

4. Without prejudice to other communication or duties of communication established by law, the supervisory board, or any member of the management board or of the supervision board, as well as any qualified shareholder, shall also promptly notify the Bank of Cape Verde of any serious irregularity of their knowledge related to, the management, accounting and or internal auditing of the credit institution and which is likely to put the institution on a imbalanced financial situation.

5. The duty to communicate referred in the preceding numbers persists after cessation of the functions in question or the cessation of ownership of qualifying shares, and in respect of events occurred during the exercise of these functions or the ownership of those shares.

6. Following communications by the Bank of Cape Verde, the same can at any time, ask for any other information it considers necessary, which must be provided within the period prescribed for that purpose.

7. Compliance with the duty to communicate is an exception to the duty of confidentiality provided for in article 32 of the Basic Law of the Financial System, should this involve disclosure of facts or details subject to secrecy, under that article contents.

8. The Bank of Cape Verde shall define, by regulation, criteria for application of the content of number 2 of this article.

Section III
Customer relations

Article 66
Customer-bound information

1. Financial institutions should collect updated information about their customers in order to adequately know their financial and employment situation, their goals of savings and possibilities of honouring their commitments.

2. The information referred in the preceding number should be given at the time of opening of the account and whenever significant changes in the client's situation occur or on the moment of providing different financial services, and should be updated every two years.

Article 67
Customer complaints

1. Customers of financial institutions may submit directly to the Bank of Cape Verde claims based on breach of the rules that govern their activity.

2. The analysis of complaints is carried out by the Bank of Cape Verde in accordance with the principles of impartiality, diligence and gratuity.

3. The Bank of Cape Verde shall specify by notice, the procedures and time limits for the analysis of complaints referred in the preceding numbers.

Article 68
Codes of conduct

1. Financial institutions or their representative associations shall adopt codes of conduct that regulate the various aspects of their relationships with their customers.

2. The codes of conduct shall be disseminated to customers through the website of the financial institution.

3. The Bank of Cape Verde shall define, by notice, the minimum content and other aspects of the codes of conduct referred in the previous numbers and may also issue recommendations on said codes.

Section IV
Internal organization

Article 69
Duties of organization

Financial institutions shall possess sufficient human, material and technical resources to provide their services in appropriate conditions of quality, professionalism and efficiency, and shall:

a) Adopt an organizational structure and decision-making procedures that specify the communication channels and the assignment of duties and responsibilities;
b) Ensure that their employees are aware of the procedures for the proper execution of their responsibilities;
c) Ensure that the procedures adopted and the measures taken are enforced;
d) Hire employees with the skills, knowledge and expertise necessary for the performance of the responsibilities allocated to them;
e) Adopt effective means of reporting and internal communication;
f) Keep records of their activities and internal organization;
g) Adopt appropriate systems and procedures to safeguard the security, integrity and confidentiality of the information;
h) Adopt a policy of continuity of activities aimed at ensuring, in the case of an interruption of their systems and procedures, the preservation of essential data and functions and the pursuit of their financial activities or, if this is not possible, ensure the fast recovery of such data and functions and the fast resumption of such activities;
i) Adopt an accounting system that allows, at any time and without delay, the timely submission of financial reports which reflect a true and fair view of their financial position and which comply with all applicable accounting rules and standards.

Article 70
Compliance control system

1. Financial institutions shall have appropriate policies and procedures aimed at detecting any risk of breach of the obligations to which they are subject, applying measures to minimize or correct such breaches.

2. Banks shall establish and maintain an independent system of compliance control covering at least:

a) The monitoring and regular assessment of the adequacy and effectiveness of the measures and procedures adopted to detect any risk of failure of the duties to which they are subject, and the measures taken to address any deficiencies in their performance of them;

b) The identification of operations involving financial instruments suspected of money laundering or financing of terrorism;
c) the immediate provision to the management board of information on any evidence of violation of regulatory or legal duties;
d) The preparation and presentation to the management and supervisory boards of an annual report, at least, on the compliance control system, identifying the failures that occurred and the measures taken to remedy any deficiencies.

Article 71
Risk management

1. Financial institutions shall adopt policies and procedures to identify and manage the risks associated with their activities, procedures and systems, considering the level of risk tolerance.

2. Financial institutions shall monitor the adequacy and effectiveness of the policies and procedures adopted pursuant to number 1, compliance with these by all staff and members of governing boards and the adequacy and effectiveness of measures taken to address any deficiencies.

3. Financial institutions should establish an independent risk management service responsible for:

a) Ensuring implementation of the policy and procedures referred in number 1;
b) Providing advice to the management board and preparing and presenting to this board and to the supervisory board an annual report, at least, on the management of risks, indicating if appropriate measures were taken to correct any deficiencies.

4. The duties provided for under the preceding number shall apply to:

a) Banks;
b) Other financial institutions when deemed appropriate and proportionate by the Bank of Cape Verde, taking into account the nature, scale and complexity of the activities, as well as the type of activities and services provided.

5. Financial institutions that according to the criteria mentioned in paragraph b) above do not have to adopt an independent risk management service shall ensure that the policies and procedures adopted meet the requirements of numbers 1 and 2.

Article 72
Internal audit

1. Each financial institution shall establish an internal audit department responsible for:
a) Adopting and maintaining an audit plan to examine and evaluate the adequacy and effectiveness of the systems, procedures and standards supporting the internal control system of the financial intermediary;

b) Issuing recommendations based on the results of evaluations carried out and verifying their compliance; and
c) Preparing and submitting to the management and supervisory boards an annual report, at least, on auditing issues, indicating and identifying the recommendations that were followed.

2. The internal audit system shall be independent in banks.

3. The provisions of the preceding number shall apply to other financial institutions when considered appropriate and proportionate by the Bank of Cape Verde, taking into account the nature, scale and complexity of the activities as well as the type of financial activities provided.

Article 73
Accounting and records

1. The accounting and financial report shall be prepared in accordance with the internationally accepted accounting rules and principles and shall reflect the additional accounting rules issued by the Bank of Cape Verde.

2. The accounts of financial institutions shall reflect the creditor or debtor balance in cash and financial instruments for each client on a daily basis.

3. The institution shall keep a daily sequential record of operations being carried out by it on its own account and on behalf of each customer, identifying the movements of financial instruments and cash.

4. Without prejudice to more stringent legal or regulatory requirements, financial institutions shall keep on file all documents and records relating to contracts with customers or documents which contain the conditions under which the financial intermediary provides services to customer, for a period of five years since the provision of the service or the term of the customer relation.

Article 74
Irregularities report

1. Financial institutions shall implement adequate means to receive, process and archive serious irregularities related to the management, accounting and internal supervision of the credit institution, likely to place them in a situation of financial imbalance, in order to ensure that they are communicated to the supervisory board by employees of the credit institution, its agents, their authorized representatives or other persons who provide them with services on a permanent or occasional basis.

2. The means referred in the preceding number shall ensure the confidentiality of the equities received and for this purpose an evaluation report on the reasons should be prepared.

3. The participation of serious irregularities under this article may not justify the establishment of any disciplinary, civil or criminal proceedings or the adoption of discriminatory practices that are prohibited under the labour law.

Article 75
Processing of customer complaints

1. Financial institutions shall maintain an effective and transparent procedure for the proper and prompt handling of complaints received from customers, providing at least:

   a) The receipt, referral and processing of complaints by a different employee from the one that committed the act that is claimed;
   b) Specific procedures to be adopted for the assessment of complaints;
   c) Deadline for response.

2. Financial institutions shall maintain for a period of five years records of all complaints that include:

   a) The complaint, identification of the claimant and date of entry of the complaint;
   b) The identification of the financial activity in question and the date of the facts;
   c) The identification of the employee who committed the act;
   d) The assessment made by the financial institution, the measures taken to resolve the issue and the date of its communication to the complainant.

3. The Bank of Cape Verde can specify, by notice, the rules for the processing of customer complaints by financial institutions

Article 76
Advertising

1. The advertising of financial activities, services and products shall:

   a) Be called as such;
   b) Contain clear references to the financial institution responsible for the products and services advertised;
   c) Include current and accurate information and not distort the facts;
   d) Issue information necessary, in each case, for a correct evaluation of the characteristics that financial institutions highlight of the activities, financial services or products advertised.

2. In particular, the advertisements of credit contracts shall be illustrated, whenever possible, through representative examples.

3. The Bank of Cape Verde shall, by notice, determine the rules which govern the advertising of activities, services and financial products.

Article 77
External auditor

1. The management board of a bank shall appoint from among the natural or legal persons legally qualified to perform audits in the country and on the proposal of the relevant committee constituted under article 35, number 4, an external qualified and independent auditor who, in the opinion of the Bank of Cape Verde, can provide audit functions in conditions of high integrity, independence and technical expertise and who, in accordance with the International Auditing Standards (IAS), can:

   a) Issue an opinion on the documents submitted for accountability, particularly if they reflect accurately and fairly the financial situation of the bank, in accordance with this law;
   b) Supervise and issue an opinion on the appropriateness of the internal auditing, compliance monitoring and risk management practices and procedures adopted, issuing recommendations to overcome any constraints detected;
   c) Inform the management board of any fraudulent activities by employees or members of the governing boards of the bank or any subsidiary or of any failure in its administration or operations which are likely to determine a substantial equity loss to the bank or said subsidiaries;
   d) Inform the Bank of Cape Verde under the terms of article 144.

2. The external auditor of a bank or any member of the auditing firm may not be an entity related with the bank, or agent or representative of the bank, or have any financial interest in the bank.

3. The Bank of Cape Verde shall establish by notice rules on the rotation of auditors to ensure their independence.

4. The Bank of Cape Verde may require the removal or replacement of the external auditor of a bank, or directly appoint, remove or replace the auditor if the bank or auditor does not meet the requirements of this article, or whenever it has justifiable reasons to assume that the auditor is not fulfilling his/her functions under conditions of high integrity, independence and technical expertise.

5. This article shall not apply to banks headquartered in a foreign country, which are authorized to conduct financial activity in Cape Verde through branches, since comparable requirements are applicable to them in their home country, under which law the bank is authorized.

6. The Bank of Cape Verde may establish by notice the extent to which the requirements of this article apply to other financial institutions.

Section V
Subcontracting

Article 78
Subcontracting

1. The subcontracting to a third party of financial activities or the implementation of operational functions that are essential to the provision of services on an ongoing basis and in conditions of quality and efficiency presupposes the adoption by the financial institution of measures to prevent additional operational risks arising therefrom and can only be performed if it does not undermine the internal audit of the financial institution or the ability of the competent authority to monitor compliance of the duties imposed on them by law or regulation emanating from a public authority.

2. An operational function shall be deemed essential to the execution of financial activities on a continuous basis and in conditions of quality and efficiency if a failure in its performance would materially impair the compliance by the subcontractor financial institution of the duties to which it is subject, the financial results thereof or the continuity of its financial activities.

3. The subcontracting of the business of receiving deposits from the public is not permitted.

4. The Bank of Cape Verde shall, by notice, issue the rules regarding subcontracting, which are based on the following principles:

   a) The services and activities that qualify as financial activities may only be subcontracted to financial institutions;
   b) The entities to which the services and operational functions referred in number 1 are subcontracted are subject to inspective powers of the Bank of Cape Verde, in the scope and exercise of such services and functions;
   c) The subcontracting may not result in the delegation of the responsibilities of the management board;
   d) The subcontracting financial institution shall maintain control of the subcontracted activities and the responsibility towards its customers, namely of the information duties;
   e) The outsourcing activity shall not have the effect of emptying the activity of the subcontractor financial institution;
   f) The subcontracting financial institution shall maintain the relationship and its obligations towards its clients, including the duties of information;
   g) The requirements that depend on the authorization and registration of financial institution shall be kept with the subcontractor.

Section VI
Conflict of interests

Article 79
Conflict of interests

1. Permanent or temporary employees and members of the governing boards of banks shall act independently and in accordance with the highest standards of professional diligence and loyalty to the interests of their customers and banks.

2. Each member of the management and supervisory boards shall submit an annual written report with a list of the names, addresses and other references of all the companies in which he/she has interests and family connections.
3. The persons referred in the preceding number shall also inform in writing the board of directors of interests or meaningful relationships with people who have or intend to establish relevant contracts with the bank, as soon as they become aware of the contract or proposed contract.

4. If the governing board decides on any matter referred in the preceding numbers, the member connected to the interests concerned is not allowed to vote and participate in the related discussion.

5. The Bank of Cape Verde may establish by notice:

   a) Exclusion from the duties of disclosure of transactions with respect to the reduced value or relevance of the interest or income arising thereof;
   b) The concept of significant interest for the purposes of this article.

6. Contracts in violation of this article are null.

Article 80
Policy of the conflict of interests

1. Financial institutions shall prepare and keep up dated a policy on prevention and management of conflict of interests, in terms to be defined by notice by the Bank of Cape Verde.

2. The Bank of Cape Verde shall provide, by notice, the regulations of loans to be granted to members of the management or supervisory boards of financial institutions, and to corporations or other collective board directly or indirectly dominated by them

Article 81
Other operations

Members of the management board, directors and other employees, consultants and authorized representatives of financial institutions may not intervene in the assessment and

decision of operations in which they themselves are directly or indirectly involved or which directly or indirectly involve their spouses, or people who live with them in an unmarried situation, first-degree relatives, or companies or other collective board that one or the other directly or indirectly dominate.

CHAPTER VI
FOREIGN ACTIVITIES OF FINANCIAL INSTITUTIONS BASED IN CAPE VERDE

Article 82
Branches, representative offices and subsidiaries in foreign countries

1. Financial institutions based in Cape Verde wishing to establish branches or representative offices or branches abroad shall inform the Bank of Cape Verde of their projects in advance, in terms to be defined by notice.

2. The Bank of Cape Verde may refuse the project, founded on reason, if the financial situation of the institution is inadequate to the project.

3. The decision shall be taken within a period of three months.

CHAPTER VII
ACTIVITY IN CAPE VERDE OF FINANCIAL INSTITUTIONS BASED ABROAD

Article 83
Application of the Cape Verdean law

Financial activities carried out in Cape Verde by financial institutions which are based abroad shall be governed by Cape Verdean law.

Article 84
Management

Managers of branches or representative offices shall meet the same requirements of experience and competence established for the members of the management board of financial institutions based in Cape Verde.

Article 85
Name

1. Financial institutions headquartered abroad established in Cape Verde can maintain their name of origin, unless the same is liable to mislead the public or is confusingly similar to names that are protected in Cape Verde.

2. Should the Bank of Cape Verde decide that the name of origin can be used, it shall determine that an explanatory note be added to prevent any misunderstandings.

Article 86
Liability for debts

1. The equity assets of the branch may account for obligations in other countries but only after all the obligations contracted in Cape Verde have been met.

2. The decision of a foreign authority that decrees the insolvency or liquidation of the financial institution shall only apply to branches established in Cape Verde, when reviewed by Cape Verdean courts, and only after compliance with the preceding number.

Article 87
Accounting and bookkeeping

The financial institution shall keep centralized in the first branch established in the country the accounting records of the operations in Cape Verde and the use of the Portuguese language in the accounting and statutory books shall be mandatory.

CHAPTER VIII
INSURANCE AND REINSURANCE ACTIVITY

Article 88
Conduct of insurance and reinsurance activity

The conduct of insurance and reinsurance activity is subject to special legislation, without prejudice to the application of this Law, *mutatis mutandi*, in order not to frustrate the special legislation.

HEADING III
EXERCISE OF SUPERVISION

CHAPTER I
GENERAL SUPERVISION

Article 89
Supervisory actions and procedures in general

1. In exercising its supervisory powers, the Bank of Cape Verde is especially responsible for:

a) Monitoring the compliance of laws and regulations that govern the activities of financial institutions;
b) Monitoring the activities of financial institutions continuously, namely carrying out regular supervision and enforcement actions, as deemed necessary;
c) Conducting audits or simplified tests of historical financial information, examinations and analyses of the activities of financial institutions and their registration, internal control, risk management and governance systems;
d) Conducting inspections as deemed necessary and appropriate to exercise their supervision duties;
e) Approving the actions and granting authorizations prescribed by law;
f) Making the records required by law;
g) Issuing opinions and general recommendations, in the scope of matters within its competence;
h) Issuing specific recommendations and determinations to remedy irregularities detected;
i) Determining the application of therapeutic measures provided for in article 95;
j) Preparing and undertaking processes and penalizing infringements within its competence;
k) Carrying out surveys to investigate offenses of any kind committed within the financial market or affecting its normal operation;
l) Performing the necessary acts to comply with the objectives referred in the Basic Law of the Financial System;
m) Disseminating relevant information;
n) Publishing studies.

2. As regards the jurisdiction specified in paragraph k) above, the Bank of Cape Verde shall report to the competent authorities breaches of which it becomes aware and which prosecuted and punished are not within its competence.

3. The Bank of Cape Verde may require audits or special simplified examinations of historical financial information as well as special examinations and analyses of the activities of financial institutions and their registration, internal control, risk management and governance systems, carried out by an independent entity appointed at the expenses of the audited institution.

4. The Bank of Cape Verde shall collaborate with other supervisory authorities of the financial system in sharing information, identifying and monitoring systemic risks.

Article 90
Regular supervision process

1. The monitoring of the activities of financial institutions by the Bank of Cape Verde is based on the regular supervision process

2. The Bank of Cape Verde shall regulate, by notice, the general supervision process, particularly with regard to the methods, procedures and criteria for analysis and evaluation.

3. Taking into account the technical criteria set out in the applicable regulations, the Bank of Cape Verde shall examine the arrangements, strategies, processes and mechanisms implemented by financial institutions to comply with the rules of the activity, and assesses the risks to which financial institutions are or may be exposed.

4. Based on the review and evaluation referred in the preceding number, the Bank of Cape Verde shall decide whether the arrangements, strategies, processes and mechanisms implemented by financial institutions and the own funds held by these ensure the sound management and coverage of their risks.

5. The Bank of Cape Verde shall determine, in accordance with the principle of proportionality, the frequency and intensity of the review and evaluation referred in this article, taking into account the size, systemic importance, nature, scale and complexity of activities of the financial institution concerned.

6. The analysis and evaluation referred in this article shall be updated whenever the Bank of Cape Verde deems necessary, but not less than once a year.

Article 91
Regular and extraordinary supervision actions on site

In exercising its general powers of supervision and for the purposes of the regular supervision process, the Bank of Cape Verde shall carry out regular and extraordinary on-site supervisory actions it deems necessary of the entities subject to its supervision, in the terms and conditions specified in the regulations.

Article 92
Ongoing supervision

The Bank of Cape Verde shall continuously monitor the activity of entities subject to its supervision, although suspicion of irregularity may not exist.

Article 93
Prerogatives of the Bank of Cape Verde in the exercise of its supervision

1. During supervision, the Bank of Cape Verde shall take the necessary steps to ensure the effectiveness of the general principles applicable in the financial system and shall pursue its their underlying regulatory and supervisory objectives as identified in the Basic Law of the Financial System, while preserving as far as possible the autonomy of entities subject to its supervision.

2. In the exercise of its supervision, the Bank of Cape Verde shall have the following prerogatives:

a) Require any details and information and examine books records and documents; supervised entities may not invoke professional secrecy;
b) Require any details and information regarding the shareholder structure of legal persons involved in the financial market;
c) Hear any persons, summoning them for the purpose if necessary;
d) Determine that the persons responsible for the places where any proceedings are prepared or other steps are taken provide the facilities needed by their agents for the execution of these tasks, under appropriate conditions of dignity and efficiency;
e) Access bank and intermediation records;
f) Request the assistance of other persons or entities, including law enforcement agencies when deemed necessary or convenient for the exercise of their duties, particularly in cases of resistance to this exercise or due to the technical expertise of the matters in question;
g) Replace the supervised entities in complying with disclosure requirements, in case of refusal of such entities to comply with these duties.

3. In the situations described in number 1 and in paragraphs a), b), c), d) and f) of number 2, the natural or legal persons concerned shall be subject to the duty not to disclose to customers or third parties the content or the occurrence of the action carried out.

Article 94
Duty to cooperate with other authorities

Police authorities and any public authorities or services shall provide to the Bank of Cape Verde the collaboration requested by it as part of their supervisory duties.

Article 95
Corrective measures

1. The Bank of Cape Verde may require that financial institutions that do not comply with the rules which govern the activity quickly take measures or actions necessary to correct the situation.

2. To this end, the Bank of Cape Verde may issue specific instructions and orders, determine the application of appropriate penalties and determine the following measures, inter alia:

a) Require the restoration of liquidity levels for the values that the Bank of Cape Verde considers appropriate in the circumstances of the case in question;
b) Require financial institutions to hold equity capital in excess of the minimum level established;
c) Require financial institutions to apply a specific provisioning policy or treatment of assets for the purposes of capital requirements;
d) Require the reinforcement of the arrangements, processes, mechanisms and strategies created for the purposes of corporate governance, internal control and self-assessment;
e) Restrict or limit the business, operations or network of financial institutions;

f) Require the reduction of risk inherent to the activities, products and systems of financial institutions, including:

   i. Restricting the receipt of deposits, depending on their arrangements and remuneration; and
   ii. Establishing restrictions on the granting of credit and the investment of funds in certain types of assets, particularly in relation to transactions with institutions that have a control or group relationship with the financial institution concerned, or other entities with which the financial institution concerned has a control or group relationship.

g) Require financial institutions to limit variable remuneration as a percentage of net profits, when this compensation is inconsistent with the maintenance of a sound capital base;
h) Require financial institutions to use net profits to strengthen the capital base;
i) Subject certain transactions or certain activities to the prior approval of the Bank of Cape Verde;
j) Require that the average total assets during a quarter does not exceed the average total assets in the previous quarter or diversification or divestment of certain assets;
k) Prevent the institution from acquiring shareholdings, opening or acquiring branches or agencies or starting a new line of business;
l) Prevent remunerative interest rates of deposits exceed comparable rates in Cape Verde;
m) Determining the dismissal of one or more directors;
n) Require the institution to disinvest or to liquidate subsidiaries;
o) Restrict the remuneration of members of governing boards;
p) Restrict the distribution of dividends or social assets;
q) Determine the application of any of the measures referred in article 93.

3. If the recovery plans and resolution measures referred in article 58 are not submitted by the financial institution concerned or the additional information requested is not provide, the Bank of Cape Verde may enforce the measures provided for in the preceding number that prove adequate to prevent the risks associated with this omission.

CHAPTER II
PRUDENTIAL SUPERVISION

Article 96
Principles of prudential supervision

1. The prudential supervision by the Bank of Cape Verde is targeted at the objectives referred in article 11 of the Basic Law of the Financial System and governed by the following principles:

   a) Preservation of the solvency and liquidity of financial institutions and the prevention of inherent risks;
   b) Prevention of systemic risks;

c) Monitoring of the suitability of the members of the management board and of the persons who effectively direct the business, and of the holders of qualifying shares, according to the criteria defined in this act and supplementary legislation, in order to maintain a sound and prudent management of the financial institution at all times.

2. The Bank of Cape Verde shall regulate the preceding number, by notice.

Article 97

Actions and procedures of prudential supervision

1. In exercising its powers of prudential supervision, the Bank of Cape Verde is especially responsible for:

a) Carrying out regular stress tests;
b) Performing the necessary steps and taking appropriate measures to comply with the principles referred in the preceding article;
c) Analyzing the recovery and resolution plans submitted by the institutions pursuant to article 58; and
d) Ordering changes to the recovery plans and resolution submitted, as it deems necessary to ensure the proper fulfilment of such objectives.

2. For the purposes of paragraph a) above and to ensure consistency with the performance of stress tests on financial institutions, the Bank of Cape Verde shall, by notice, provide the periodicity, underlying objectives, methodology to be followed and the criteria for assessment and evaluation to be used as well as the assumptions on which they are based, including macroeconomic scenarios, that serve as a reference.

Article 98

Responsibilities of the Bank of Cape Verde within the scope of the recovery and resolution plans

1. The Bank of Cape Verde may require, within a specified period, the introduction of amendments to the plans submitted under article 58, which it considers necessary to ensure proper implementation of the same underlying objectives, as well as request the provision of further information.

2. If the plans are not submitted by the credit institution or if it does not make changes or provide the information specified in the previous number within the deadlines, the Bank of Cape Verde may determine the application of remedial measures provided for in article 95, which prove appropriate to prevent the risks associated with this omission.

3. Notwithstanding the provisions of article 58 number 1, the Bank of Cape Verde may require any institution subject to its supervision, depending on their relevance to the national banking or financial system, to submit recovery and resolution plans, applying the provisions of numbers 1 to 3 of article 58 and article 59 and 60.

4. The Bank of Cape Verde may exempt a bank covered by number 1 of article 58 from the submission of the plans specified therein, based on any of the following criteria:

   a) The market share of the bank in deposits is less than 2%;
   b) The reduced importance of the bank within the payment, clearing and settlement systems;
   c) The small size and importance of the bank in terms of number of customers in the national or regional context of the national banking or financial system.

5. If the bank required submitting recovery or resolution plans carries out financial intermediation in financial instruments, the Bank of Cape Verde shall communicate their recovery and resolution plans to the AGMVM.

Article 99

Additional powers in the context of recovery and resolution plans

1. If, from the analysis of recovery or resolution plans submitted by banks in accordance with article 58, the Bank of Cape Verde detects the existence of any operational constraints or that may result in legal constraints or that the business model adopted by the bank may predict a potential application of public intervention measures under heading VI, the Bank of Cape Verde may, in the implementation of resolution measures require the removal of these constraints within a period set by it in order to ensure that the essential economic functions with potential systemic impact are preserved, if need be, through the respective split.

2. For purposes of the preceding number, the Bank of Cape Verde may determine, without prejudice to the powers of the bank's governing boards, that the institution adopt the following measures, inter alia:

   a) Change its legal and corporate organization or group to which it belongs;
   b) Change its operating structure or the group to which it belongs;
   c) Legal separation, at the group level to which it belongs, between financial and non-financial activities;
   d) Segregation between the activities of taking deposits, lending operations and payment services and other activities of financial institutions;
   e) Restricting or limiting their activities, operations or network of branches;
   f) Reduction of the risk inherent in their activities, products and systems;
   g) Imposition of additional reports;
   h) Application of other measures similar to the ones in the preceding paragraphs that in the opinion of the Bank of Cape Verde prove warranted;
   i) Implementation of the measures referred in article 95, provided that they satisfy the conditions for the effect.

3. If the bank exercises an activity of financial brokerage in securities, the Bank of Cape Verde shall communicates to the AGMVM the measures taken which may impact on the development of financial intermediation.

4. The preceding numbers shall also apply in relation to any financial institution which is required by the Bank of Cape Verde to submit a recovery or resolution plan pursuant to number 3 of article 98.

Article 100
Consolidated supervision

The Bank of Cape Verde shall fixe, by notice, the terms on which financial institutions are subject to supervision on a consolidated supervision based on an adjusted consolidated basis.

Article 101
Duty to cooperate of the Tax Administration

Tax authorities shall cooperate with the Bank of Cape Verde regarding the measures implemented by financial institutions to strengthen or stabilize their financial situation, in compliance with specific determinations and requirements of the Bank of Cape Verde, particularly under the provisions of paragraph c) of number 2 of article 95.

CHAPTER III
MARKET CONDUCT SUPERVISION

Article 102
Actions and procedures of market conduct supervision

In the exercise of its powers of market conduct supervision, the Bank of Cape Verde shall be responsible for:

a) Issuing instructions and specific rules where the financial institution fails or there is the risk that it will fail to comply with the laws and regulations governing its activities;
b) Instructing the processes of administrative offences and apply the corresponding sanctions;
c) Sorting the changes necessary to eliminate irregularities;
d) Ordering the suspension of illegal actions, including advertising campaigns that do not comply with the applicable legal and regulatory standards;
e) Determining the immediate publication by the responsible entity of the appropriate rectification;
f) Replacing the offender, at its expense, in the fulfilment of the orders and determinations referred in paragraphs c) to e) above, in case of default and without prejudice of the applicable penalties;
g) Analyzing the codes of conduct submitted by the institutions pursuant to Article 68;
h) Issuing instructions on codes of conduct and define guidelines for this purpose by notice; and

i) Requiring changes to codes of conduct submitted as deemed necessary so as to ensure proper compliance with the underlying objectives.

CHAPTER IV
RECORDS AND DISSEMINATION OF INFORMATION

Article 103
Records

1. The records kept by the Bank of Cape Verde aim to control the legality and compliance with regulations of the facts or elements subject to registration and supervision of the organization.

2. The records kept by the Bank of Cape Verde are public, except when provided for otherwise by law.

3. Documents on which records are based shall be public unless they contain personal data not on the register or the request was made under an offence or the investigation is still in an ongoing process or which for any other reason are subject to secrecy.

4. The Bank of Cape Verde shall determine, by notice, the terms of public access to records and documents referred in the preceding numbers.

5. The Bank of Cape Verde shall keep a record of the main and additional penalties imposed in cases of misdemeanour.

6. The records kept by the Bank of Cape Verde may be integrated and processed in computer applications, under the terms and limits of the law on protection of personal data.

Article 104
Information dissemination system

1. The Bank of Cape Verde shall organize a computer information system for the dissemination of information accessible to the public, which integrates the information that must appear in the same terms provided for in this Act and supplementary legislation, as well as evidence in the records of the Bank of Cape Verde decisions with public interest and other information notified to or approved by it.

2. The declaration of the Board of Directors of the Bank of Cape Verde attesting to expenses with publications that according to law can be promoted at the expense of entities subject to its supervision shall be enforceable.

HEADING IV
DISSOLUTION AND LIQUIDATION

CHAPTER I
INTRODUCTORY PROVISIONS

Article 105
Scope of application

1. The dissolution and liquidation of financial institutions based in Cape Verde and branches of foreign financial institutions headquartered in Cape Verde shall be governed by the provisions of this heading and alternatively by the general rules of civil, commercial and procedural laws.

2. Without prejudice to article 86, the provisions of this heading shall also apply to the liquidation of branches of financial institutions located in Cape Verde with their headquarters in foreign countries.

Article 106
Dissolution with declared liquidation

1. Financial institutions shall dissolve by resolution of the shareholders or by the effects of the revocation of the activity permit by the Bank of Cape Verde pursuant to article 10

2. With dissolution, financial institutions shall immediately enter into liquidation.

3. Bankruptcy of financial institutions can only be declared in the manner provided for in this heading.

4. The recovery of credit institutions in trouble can take place only within the framework of this law; no other legal provisions on bankruptcies, defaults and lenders are applicable.

Article 107
Voluntary dissolution

1. Voluntarily dissolve of financial institutions shall be settled out of court if they have sufficient assets to meet its liabilities, in accordance with Chapter II of this heading and, and secondarily, in terms of the civil and commercial law applicable.

2. Any proposed voluntary dissolution of a financial institution shall be communicated to the Bank of Cape Verde at least ninety days prior to the date of its execution.

3. The draft dissolution referred in the preceding number shall contain a detailed settlement plan and the identification of the liquidators.

4. The decision to dissolve shall be communicated to the Bank of Cape Verde for registration within five days of its date.

5. The authorization shall expire with the registration of the resolution of dissolution.

6. The Bank of Cape Verde shall make public the decision communicated in accordance with the preceding number and publishes it in at least one newspaper of national circulation.

7. The Bank of Cape Verde may determine, at any time, the administrative liquidation of the financial institution voluntarily dissolved, observing in this case, the terms set out in Chapter III of this heading.

8. The preceding number shall apply to projects for the closure of the branches of banks based in foreign countries.

Article 108
Compulsory dissolution

1. Credit institutions dissolved by virtue of the revocation of the activity permit by the Bank of Cape Verde shall be settled in accordance with the administrative procedure laid down in Chapter III of this heading.

2. In the decision to revoke a license, the time of the act is given, in case of failure, as 12 am for all legal purposes, as the time of initiation of the liquidation process.

3. Other financial institutions dissolved by virtue of the revocation of the authorization by the Bank of Cape Verde shall be settled in accordance with judicial procedures generally applicable to commercial companies.

Article 109
Inter-bank clearing

Regardless of the cause, in the liquidation process of a credit institution, the compensation of reciprocal credit shall automatically apply between the bank to be liquidated and the other banks in the financial system.

Article 110
Regulation

The Bank of Cape Verde shall adopts technical warnings and instructions in order to explain the concepts, procedures and duties under this heading, as well as those that are necessary for the proper implementation.

CHAPTER II
LIQUIDATION FOLLOWING VOLUNTARY WINDING-UP PROCEDURES

Article 111
Terms of settlement

1. The liquidators shall submit to the Bank of Cape Verde the annual report and final accounts of the financial institution in liquidation.

2. Pending liquidation the rules of conduct and internal organization to which financial institutions are subject shall apply, *mutatis mutandis*.

3. The financial institution in liquidation remains under the supervision of the Bank of Cape Verde, which shall hold *mutatis mutandis* their powers and duties provided for in articles 89 to101.

4. The provisions of article 246 of the Commercial Companies Code are not applicable to financial institutions.

Article 112
Cessation of liquidation

The extrajudicial liquidation of a credit institution shall cease:

a) Should a decision of administrative liquidation of the institution in voluntary dissolution be taken by the Bank of Cape Verde;
b) With the approval of the final accounts of the winding-up committee and cancelling of the competent commercial register.

CHAPTER III
ADMINISTRATIVE LIQUIDATION

Section I
Withdrawal of authorization and its effects

Article 113
Withdrawal of authorization and declaration of bankruptcy

Regardless of its basis, the decision to withdraw the authorization shall, for all intents and purposes, be considered bankruptcy of a credit institution.

Article 114
Powers of the Bank of Cape Verde

Once the process of liquidation has been initiated, the Bank of Cape Verde shall be empowered to:

a) Confirm and facilitate the actions of the winding-up committee;
b) Monitor the liquidation process and issue recommendations as it deems fit;
c) Assess appeals against decisions of the winding-up committee; and
d) Perform other duties assigned to it under this chapter.

Article 115
Effects of the declaration of bankruptcy

A declaration of bankruptcy shall immediately produce the following effects:

a) Transfer to the winding-up committee of the powers of administration and disposal of the assets making up the equity of the credit institution in liquidation;
b) Suspension of all actions brought against the credit institution or against third parties in which issues relating to assets included in the equity of the credit institution in liquidation are assessed, the results of which might influence the value of the assets of the credit institution in liquidation;
c) Suspension of all executions or measures that affect the assets of the credit institution in liquidation; no other actions can be undertaken during the liquidation;
d) Immediate expiration of the obligations of the credit institution in liquidation under condition precedent;
e) Ineffectiveness of the penalty clauses of expired contracts in view of the declaration of bankruptcy;
f) Suspension of the calculation of interest of the insolvency estate; and
g) Suspension of the limitation and prescription periods, opposable by the credit institution in liquidation, during the course of the proceedings.

Article 116
Civil and criminal liability

Should any evidence, even circumstantial, of crimes committed by any of the former members of the board of directors, members of the supervisory board, auditors or certified accountants, directors or employees be brought to light in the course of the winding-up proceedings, the winding-up committee shall forward them to the Public Prosecutor so that it may promote the competent prosecution and bring about a civil action.

Article 117
Discharge of liens and collateral

1. The declaration of bankruptcy implies the discharge of liens and guarantees on equity of the credit institution in liquidation arising after the withdrawal of authorization.

2. The winding-up committee shall promote the cancellation of the registration of the securities mentioned by simple request.

3. The declaration of bankruptcy further discharges:

a) The general and special liens that are ancillary to loans and advances to the credit institution in liquidation held by the State, local authorities and social security institutions that accrued more than twelve months before the state date of the liquidation;
b) The collateral on real estate subject to registration included in the assets of the credit institution in liquidation, ancillary credit on the institution already approved but not yet registered or in relation to which registration has not yet been applied for, provided they are not independent of registration.

Section II
Subsequent processing

Article 118
Appointment of the winding-up committee

1. No later than five working days after the withdrawal of authorization, the Bank of Cape Verde shall appoint a winding-up committee made up of three members.

2. Regardless of the publication of their appointment, the liquidators shall take up their duties immediately.

3. The appointment of winding-up committee shall be immediately notified to the appointed liquidators and shall be published on the website of the Bank of Cape Verde and in a newspaper of national circulation.

4. The decision of the Bank of Cape Verde appointing the winding-up committee shall contain:

    a) The identification of the credit institution in liquidation, indicating their headquarters;
    b) Determination of the residence of the liquidators, indicating their place of business;
    c) Determination of the residence of the directors of the credit institution on the date of the withdrawal of authorization;
    d) Resolution that the financial institution shall be immediately delivered to the liquidators with the following elements:

        i. Provisional list of creditors in alphabetical order, with an indication of the sums, due date, nature and guarantees in their benefit;
        ii. List and identification of the pending actions and executions of which the credit institution is a party;
        iii. Indication of the activities in which the credit institution was involved in the last three years;
        iv. List of assets held by the credit institution under a lease, rent or sale agreement with reservation of ownership;
        v. Accountability documents of the past three years, including, where appropriate, consolidated accounts for the same period;
        vi. Payroll records of the staff at the service of the credit institution.

5. The members of the winding-up committee are subject to the qualification and suitability requirements set out in articles 28 to 31 and supplementary regulations.

Article 119
Winding-up committee

1. The winding-up committee under the supervision of the Bank of Cape Verde shall be responsible for:

   a) The duties assigned to the members of the board of directors under commercial law and under this act;
   b) Immediately after the appointment carry out an inventory of the assets of the institution and file a copy at the Bank of Cape Verde;
   c) Check the right to restitution or separation of property and check, classify and rank the loans or advances on the insolvent estate;
   d) Sell the assets comprising the equity of the credit institution in liquidation;
   e) Prepare the payment of the debts of the credit institution in liquidation;
   f) Manage the insolvent estate and represent it, actively and passively, in and out of court;
   g) Provide for the conservation and fructification of the rights of the credit institution in liquidation and the continuation of its activity, under the specific conditions included in the authorization of the Bank of Cape Verde to the effect, avoiding, if necessary and as far as possible, the worsening of the economic situation;
   h) Hire employees and/or the services necessary to liquidate the assets of the credit institution and/or the continuation of its activities during the liquidation, whether paid or unpaid;
   i) Exercise, on behalf of the credit institution in liquidation, all rights under any contracts financial instruments or other instruments, particularly for the purposes of the liquidation referred in c) and e);
   j) Commence, continue or defend all actions of which the credit institution in liquidation is a party, including precautionary measures.

2. The contracts referred in paragraph h) above shall expire upon termination of the liquidation, should they still exist at that time.

3. The liquidators shall personally exercise the powers of their office and may not delegate them on anyone else, without prejudice to cases of mandatory legal representation to appeal.

4. Should there are reasonable grounds to do so, the Bank of Cape Verde may determine the removal and replacement of the liquidator or of the members of the winding-up committee, in whole or in part.

5. The remuneration of the members of the winding-up committee shall be set annually by the Bank of Cape Verde, at the expense of the credit institution in liquidation.

6. The winding-up committee shall respond civilly and criminally for acts performed in the exercise of its duties, with the provisions of number 4 of article 148 applying to its members.

7. The members of the winding-up committee shall be subject to the duty of confidentiality provided for in article 32 of the Basic Law of the Financial System.

Article 120
First steps

1. The winding-up committee shall immediately after its appointment:

   a) Carry out an inventory of the assets of the institution and file a copy with the Bank of Cape Verde;
   b) Prepare a list of the loans and advances of the institution in the accountancy of the credit institution in liquidation and other elements at its disposal, based on the provisional list referred in paragraphs d) to i) of number 4 of article 118, with an indication of the sums, distinguishing between capital and interest up until the date of the declaration of bankruptcy, as well as the origin, nature and guarantees that benefit the institution.

2. A copy of the inventory referred in paragraph a) above shall be available at the headquarters of the credit institution in liquidation for stakeholder consultation.

3. The list of the loans and advances referred in paragraph b) of number 1 shall be published on the website of the Bank of Cape Verde and in a national newspaper and shall also be available at the headquarters of the credit institution in liquidation for stakeholder consultation.

Section III
Verification of liabilities

Article 121
Notice to creditors

1. The winding-up committee shall publish in the Official Gazette and in a newspaper of general circulation at the headquarters of the Bank in liquidation a notice to the creditors that a provisional list of creditors is available for consultation and that those who consider themselves unsuccessful may lodge their claims.

2. In the notice referred in number 1, the winding-up committee shall also indicate the deadline for the presentation of claims, which may not be less than twenty nor more than forty-five days, depending on the value of liquidation and the interests involved.

3. For the purpose of being able to claim their credits, creditors shall be assured of the right to obtain from the winding-up committee information, account statements,

balances and other data necessary to defend their interests and act as proof of their claims.

4. The winding-up committee shall always provide a receipt of the credit claims and documents received.

Article 122
Verification of claims

1. The winding-up committee shall add to each claim received complete information on the outcome of the investigations it carried out on the books, papers and notes of the credit institution in liquidation, relative to the claimed credit, as well as its ruling on the legitimacy, value and graduation under this law.

2. The winding-up committee may require the former members of the board of directors of the credit institution in liquidation to provide information on any of the claimed credits.

3. Once the period for lodging claims has elapsed and the analysis referred in number 1 has been made, the winding-up committee shall check, classify and rank the credits it deems to be true in view of the claims received and analyzed, of the documents and of the bookkeeping of the credit institution in liquidation .

Article 123
List of recognized creditors and list of unrecognized creditors

1. In the twenty days following the expiry of the deadline for claims, the winding-up committee shall post a list of recognized creditors and a list of creditors unrecognized at the headquarters of the credit institution in liquidation and on the website of the Bank of Cape Verde.

2. The list of recognized creditors shall contain a list of all recognized creditors in alphabetical order, with an indication of the sums involved, distinguishing between capital and interest up until the date of the declaration of bankruptcy, as well as the origin, nature and guarantees that benefit the institution.

3. The list of unrecognized creditors shall contain the names of all creditors not recognized, in alphabetical order, with indication of the grounds for non-recognition.

Article 124
Appeal to the Bank of Cape Verde

1. Those interested shall have a period of twenty days from the posting referred in number 1 of the preceding article to appeal to the Bank of Cape Verde regarding the act they deem unfavourable.

2. With the appeal under the preceding number, those interested shall provide all documents, indicate the list of witnesses and require other measures of evidence indicating the facts that they intend to prove.

Article 125
Arbitration

1. The arbitrage shall be conducted within the period prescribed by the Bank of Cape Verde, on its premises, by two experts appointed by the Bank of Cape Verde, whose remuneration shall be charged to the credit institution in liquidation.

2. The two experts appointed shall lead the work, within the scope of which evidence is produced, and claims shall be submitted by the parties involved, closing the process with the submission of a report to the Bank of Cape Verde, which shall contain a proposal of decision of the verification of the claims.

3. The experts referred to above shall be subject to the requirements of technical qualifications and competence laid down in articles 28 to 31 and supplementary regulations and to the independence requirements of the Government Code of Financial Institutions referred in article 33.

4. For purposes of the preceding numbers and the appeal under article 124, the winding-up committee shall forward all claims received to the Bank of Cape Verde, together with the analysis performed by it under article 122 and the other evidence available.

Article 126
Decision of verification and ranking of claims

Within thirty days from the conclusion of the steps referred in the preceding article, the Bank of Cape Verde shall pronounce its decision on the verification and ranking of claims.

Article 127
Right of creditors

1. Creditors who feel they were jeopardized by the dismissal of the appeal in accordance with article 124, or by the decision rendered pursuant to the preceding article, may resort to procedural means of the law of administrative litigation, informing the winding-up committee of that fact so that it can provide for enough funds to satisfy their claims.

2. The right guaranteed in this article shall expire if not exercised within thirty days of the date on which the decision of verification and ranking of claims is announced.

Article 128
Appeal against decisions of the winding-up committee

1. Except as otherwise specifically provided in this act, the decisions of the winding-up committee shall give rise to an appeal having no suspensive effect, to be made within ten days of its knowledge thereof, to the Bank of Cape Verde.

2. The decision against the appeal shall be given within thirty days and communicated to the interested parties.

Article 129
Ranking

Regardless of legal provisions to the contrary, the assets of the credit institution in liquidation shall be liable for any outstanding rights thereon in the following order of priority:

a) All costs, commitments and expenses incurred by the winding-up committee in the exercise of their duties, including their remuneration;
b) The salaries and wages of employees of the institution of overdue credit after the commencement of the liquidation process, until the closure of the institution;
c) Term and sight deposits up to a maximum of 10,000,000$00 (ten million escudos) per account;
d) Other deposits; and
e) Other responsibilities, in the priority established under the applicable law.

Section IV
Valuation and liquidation of assets

Article 130
Sale of assets

1. Once all the liabilities have been taken care of, the winding-up committee shall sell all the assets and rights of the credit institution in liquidation until the liquidation process has been concluded.

2. The provision in the preceding number shall not prevent the early sale of assets, during the state of crisis or after the beginning of the liquidation, should the winding-up committee consider that said sale serves the interests of the assets in liquidation, particularly from the standpoint of its appreciation.

Section V

Payment to creditors

Article 131

Payment of the liquidation costs

Before paying the loans and advances to the credit institution in liquidation, the winding-up committee shall deduct from the paid-up equity capital the amounts necessary to pay the debts referred in paragraphs a) and b) of number 1 of article 129, including those that shall predictably be incurred until the completion of the liquidation process**.**

Article 132

Payment of recognized loans and advances

1. The payment of loans and advances to the credit institution in liquidation shall only cover those that have been verified by the decision referred in article 126.

2. The payment to the creditors referred in paragraph c) of number 1 of article 129 shall be made immediately after the payment of the liquidation costs referred in the preceding article, in proportion to their loans and advances, when the amount of the asset held is not sufficient to fully meet the payment.

3. Once all the loans and advances referred in the preceding number have been paid, the creditors mentioned in the subsequent paragraphs of number 1 of article 129 shall be paid pursuant to number 2, *mutatis mutandis*.

4. All assets available after all the loans and advances referred in number 1 of article 129 have been paid, in the order established therein, shall be deposited with the Bank of Cape Verde, which shall be obliged to keep them for a period of ten years in order to satisfy any claims, after which they shall be distributed among the shareholders in proportion to their share in the share capital of the liquidated credit institution.

Article 133

Payments

1. All payments under this section shall be made without the need for the application of cheques drawn on the account of the credit institution in liquidation.

2. Should the cheques not have been requested in the office of the Bank of Cape Verde within one year of the date of the notice to the creditor, their claims shall prescribe and the amounts shall go to the Bank of Cape Verde.

Section VI
Termination of the process

Article 134
Accountability

1. The winding-up committee shall be accountable to the Bank of Cape Verde, regardless of any requirement, the moment they leave office or at any time when requested.

2. All assets distributed under the liquidation process shall be audited and the audited accounts submitted to the Bank of Cape Verde for the purpose of approval.

3. The Bank of Cape Verde shall request the creditors and shareholders of the credit institution in liquidation, via advertisements posted on their website and in a national newspaper, to examine the accounts and to submit any written observations they deem appropriate within a period of thirty days.

4. The Bank of Cape Verde shall announce its decision on the accounts within thirty days.

5. Once the accounts have been approved, the liquidation of the Bank shall be communicated to the competent registry office for the purposes of registration.

6. Once the process has been completed, the process, computer records, books and other papers in the possession of the winding-up committee shall be delivered to the Bank of Cape Verde, where they shall be archived.

HEADING V

AUXILIARY INSTITUTIONS OF THE FINANCIAL SYSTEM

Article 135
Auxiliary institutions of the financial system

1. The auxiliary institutions of the financial system include:

   a) Financial intermediaries;
   b) Auditors and certified accountants and external auditors;
   c) Private credit information services;
   d) Credit-rating agencies;
   e) Others classified as such by law.

2. Auxiliary financial institutions are subject to the supervision of the Bank of Cape Verde.

CHAPTER I
FINANCIAL INTERMEDIARIES

Article 136
Scope and limits

1. Financial institutions may be represented by third parties in the canvassing activity, exercised professionally, without prior request and outside the establishment of the financial institution represented, with the aim of attracting customers for any activities they are authorized to practice.

2. The activity shall take place outside the establishment, including when:

   a) There is distance communication made directly to the residence or workplace of any person, including by mail, telephone, email or fax;
   b) There is direct contact between the financial intermediary and the customer or potential customer in any locations outside the premises of the financial institution.

3. In the exercise of its activity, financial intermediaries are forbidden to:

   a) Act in the name and on behalf of more than one financial institution, except in the case of institutions that fall within the same perimeter of supervision on a consolidated basis;
   b) Delegate to other persons the powers conferred on them by the financial institution;
   c) Carry out any financial operation and enter into any contracts on behalf of the financial institution;
   d) Receive or deliver any securities, financial instruments or cash;
   e) Act or make investment decisions on behalf of customers;
   f) Receive from customers any type of remuneration.

Article 137
Requirements of the activity

1. The financial activity of the mediator is exercised by:

   a) Natural persons established in Cape Verde, not integrated in the organizational structure of the financial institution;
   b) Commercial companies, with headquarters in Cape Verde, who are not in a control or group relationship with the financial institution.

2. The financial intermediary shall meet the following requirements:

   a) Be suitable and have adequate training and professional experience;
   b) Have their professional domicile or operational headquarters in the territory of Cape Verde;
   c) Have the appropriate technical and financial means for the exercise of their activity funds.

3. In the case specified in paragraph b) of number 1:

a) The suitability is assessed in relation to the company, members of the management board and private individuals engaged in the business of a financial intermediary;
b) The adequacy of the training and professional experience of the natural persons engaged in the business of financial intermediary shall be assessed.

4. The financial intermediary activity shall depend on the written contract between the financial intermediary and the financial institution, which shall explicitly establish the functions assigned to the intermediary.

5. The contract entered into between the financial institution and the financial intermediary shall also state that:

a) The financial intermediary is prohibited from delegating or subcontracting its duties;
b) The financial intermediary shall provide the institution with all necessary information with a view to the integration of the activity of financial intermediaries in their overall internal control system;
c) The institution is jointly and severally liable for all acts committed in relation to the public, customers or potential customers, enjoying the right of return of the financial intermediary;
d) As service provider to the financial institution, the financial intermediary shall be subject to banking secrecy, pursuant to the law.

6 The financial institution shall be jointly responsible for checking the requirements of this article.

Article 138
Relationship of the financial intermediary with the public

1. In its relationship with the public, the financial intermediary shall:

a) Identify itself as well as the financial institution in the name and on behalf of those who carry out the activity;
b) Provide a written document containing complete information, particularly on the limits to which it is subject in the exercise of its activity.

2. When there is no establishment open to the public, the professional license of the financial intermediary shall state the following:

a) That it is a financial intermediary;
b) The indication of the financial institution whose business it promotes;
c) That it is not authorized to carry out banking and financial operations;
d) That its activity is regulated by the Code of Conduct, which can be made available on request.

3. When there is an establishment open to the public, a clearly visible plaque shall be placed outside the establishment containing:

   a) The words “financial intermediary”;
   b) The reference to the institution represented and the words: “Not authorized to conduct banking and financial operations”.

4. In the case referred to above, a plaque containing the following information shall be posted in a clearly visible place inside the establishment:

   a) An indication of authorized acts;
   b) Information on forbidden acts, expressly for the reception, delivery and payment of shares, credit securities and other instruments;
   c) An indication that all operations required by customers shall be made directly to the institution concerned at their establishments or through other means available, including the telephone and the Internet;
   d) Information that the activity of the financial intermediary is regulated by a Code of Conduct, which is available for consultation.

Article 139
Authorization and registration

1. The activity of financial intermediary depends on the fulfilment of requirements of competence, professional qualification and technical and human resources, authorization and registration with the Bank of Cape Verde, in regular terms by notice.

2. In the case of a mandate by a financial institution also subject to the supervision of the AGMVM, the activity of the financial intermediary may only start after the communication by the financial institution to that entity, for inclusion in their computer system for the dissemination of information.

3. The Bank of Cape Verde may require applicants to provide additional information and carry out any checks it deems necessary.

4. The termination of the contract entered into between the financial institution and the financial intermediary shall be communicated to the Bank of Cape Verde and in the case referred in number 2, to the AGMVM within five days.

5. The complete identification of the financial intermediary as well as other elements referred in number 3 are registered with the Bank of Cape Verde and any changes shall be communicated by the financial intermediary within ten days.

6. The Bank of Cape Verde shall disclose and keep up to date the computer system used to disseminate information to the list of authorized financial intermediaries.

Article 140
Authorization decision

The decision shall be notified to those concerned within three months of receipt of the application or, if applicable, the receipt of additional information requested from applicants, but no later than six months from the date of the initial delivery of the request.

Article 141
Refusal and revocation of authorization

1. Authorisation shall be refused where:

   a) The application for authorization does not include all the necessary information and documents;
   b) The financial intermediary does not meet the legal requirements established for the activity;
   c) The authorization application contains inaccuracies or falsehoods;
   d) The Bank of Cape Verde considers that there are doubts as to the suitability, training and professional experience of the financial intermediary or, should the financial intermediary be a legal person, of individuals who carry out the activity;
   e) Should the financial intermediary be a legal person, the Bank of Cape Verde considers that it has not been demonstrated that all shareholders and members of the management board meet the conditions to ensure sound and prudent management.

2. If the application does not contain sufficient information, before refusing authorization the Bank of Cape Verde shall notifies the applicants, giving them reasonable time to remedy the deficiency.

3. Authorization shall expire within twelve months if the financial intermediary has not began operating.

4. Should the financial intermediary be a legal person, the authorization shall expires even if the company is dissolved, without prejudice to the acts necessary for liquidation.

Article 142
Rescission of authorization

1. The authorization of the financial intermediary may be revoked on the following grounds, besides others legally prescribed:

   a) It has been obtained by misrepresentation or other unlawful means, regardless of the penalties that may be applicable;
   b) If some of the requirements for the activity are not met;
   c) If the financial intermediary fails to comply with the rules which govern the activity, in particular those relating to activities which are prohibited, subject to the penalties of breach which may be applicable.

2. The Bank of Cape Verde may withdraw the authorization, publicizing its decision adequately.

Article 143
Responsibility and obligations of the financial institution

1. The financial institution shall be jointly and severally liable for any acts or omissions of the financial intermediary in the exercise of the functions entrusted to it.

2. The financial institution shall control and supervise the activities of the financial intermediary, who shall be subject to the internal procedures of the financial institution.

3. The financial institution shall take the necessary measures to prevent the exercise by the financial intermediary of a different activity from that provided for in number 1 of article 136 from having a negative impact on the institution.

4. The financial institution shall terminate the contract immediately if the financial intermediary does not comply with the instructions received or does not meet the standards established for the control of the activity concerned.

5. The termination of the contract, by termination or any other cause, shall be communicated to the Bank of Cape Verde, for the purpose of rescission of the authorization, and shall be adequately publicized, in order to ensure correct information is provided to the public.

6. Institutions shall develop a "Code of Conduct for Financial Intermediaries", subject to the approval of the Bank of Cape Verde.

7. Once approved, the code of conduct shall be available for consultation by customers, regardless of the existence or not of an establishment open to the public.

CHAPTER II
CERTIFIED AUDITORS

Article 144
Duty to inform

1. Certified auditors and companies of certified auditors who provide auditing services to a financial institution are required to notify the Bank of Cape Verde as soon as possible of the facts relating to the institution of which they have knowledge in the exercise of their duties, when such facts are likely to:

   a) Constitute a serious breach of the legal or regulatory rules that establish the conditions governing authorization or that specifically govern the pursuit of the activities of financial institutions; or
   b) Affect the continuous functioning of the financial institution; or

c) Determine the refusal to certify the accounts or to the issuance of reserves.

2. The obligation contained in the preceding number shall also apply to the facts that the persons referred in that number gain knowledge of in the context of identical functions, yet exercised in a company that is in a control or group relationship with the financial institution.

3. The duty to inform imposed by this article shall prevail over any restrictions on the disclosure of information legally or contractually provided for, not involving any responsibility of compliance by their subjects.

CHAPTER III
PRIVATE CREDIT BUREAUS

Article 145
Private credit bureaus

1. The main objective of private credit bureaus is to improve the access to credit for small private economic operators.

2. The private credit bureaus shall be subject to registration with the Bank of Cape Verde.

3. Only private credit bureaus with the necessary and appropriate human, material and financial resources for the exercise of their activity can only be registered.

4. The Bank of Cape Verde shall regulate, by notice, the terms and conditions to which the registration referred in number 2 is subject, the requirements to be met by private credit bureaus and the rules that govern the activity exercised by the private credit information centres.

Chapter IV
CREDIT-RATING AGENCIES

Article 146
Credit-rating agencies

1. Credit-rating agencies are subject to registration with the Bank of Cape Verde.

2. Only credit-rating agencies with the necessary human, material and financial resources to ensure their integrity, independence and expertise can be registered.

3. Credit-rating services shall be provided impartially and obey the prevailing classifications according to international custom.

4. The Bank of Cape Verde shall regulate, by notice, the terms and conditions to which the registration referred in number 2 is subject, the requirements to be met by credit-rating agencies and the rules that govern the activity exercised by the agencies.

HEADING VI
PUBLIC INTERVENTION FOR THE MANAGEMENT OF BANKING CRISES

CHAPTER I
GENERAL PROVISIONS

Article 147
Principles and general guidelines

1. The application of the measures provided for in this heading to credit institutions are subject to the principles of necessity, adequacy and proportionality under article 49 of the Basic Law of the Financial System.

2. Among the measures that may be able to ensure the safeguarding of the financial soundness of credit institutions in difficulties, the interests of depositors and the stability of the financial system, according to the requirements of each situation the Bank of Cape Verde shall apply those that concretely prove less onerous, namely:

   a) Favouring corrective intervention measures against resolution measures;
   b) Favouring those intervention measures that have a less intrusive character in managing the credit institution intervened;
   c) Applying resolution measures only as a last resort, when deemed necessary to pursue the purposes of public interest underlying the measures and when it is unable to predict if the credit institution concerned is able to perform the actions necessary to return to conditions of adequate soundness and compliance with prudential ratios in an appropriate timeframe.

3. Without prejudice to the preceding number and in any case, to the respective assumptions of application, the Bank of Cape Verde may, in accordance with the requirements of each situation and the principles underlying the scheme provided for in this heading:

   a) Combine measures of a different nature;
   b) Apply resolution measures or appoint an interim administration without measures of corrective action having been previously applied;
   c) Implement measures of corrective action at any time, even after an interim administration has been appointed or a resolution measure has been applied.

Article 148
Competence and decision

1. The measures provided for under this heading are of the responsibility of the Bank of Cape Verde.

2. The decision to apply any of the measures provided for under this heading is grounded, notified to the bank intervened and published by the Bank of Cape Verde using the means it deems appropriate.

3. Notwithstanding the indemnity rights of the creditors and counterparties in question in relation to the bank intervened, the scope of responsibility of the Bank of Cape Verde, of its internal or external employees, and of the members appointed by the Bank of Cape Verde under the provisions of articles 153 and 154 for damages resulting from the application of a corrective intervention measure, interim management or resolution or of acts performed in pursuance thereof, is limited to cases of fraud or gross negligence.

4. The Bank of Cape Verde shall compensate its permanent or temporary employees, members of governing boards, and the persons referred in the preceding number for costs incurred in defending lawsuits filed against these persons in connection with the performance of public functions relating to the powers and duties of the Bank of Cape Verde, provided that such persons have not been convicted of crimes related with the activities which are the object of such lawsuits.

Article 149
Scope of subjective application

1. The provisions of Chapters II and III of this heading shall apply to credit institutions with their headquarters in Cape Verde as well as to the branches of these institutions abroad

2. The provisions of Chapter IV of this heading shall apply to the banks based in Cape Verde as well as to branches of these banks abroad.

3. The Bank of Cape Verde may determine by notice:

   a) The application of the provisions referred in the previous number to other credit institutions;
   b) The application of the provisions of Chapters II, III and IV of this heading to the branches in Cape Verde of credit institutions subject to foreign law.

Chapter II
CORRECTIVE INTERVENTION

Article 150
Assumptions of the application of corrective intervention measures

1. When a credit institution is in a situation of financial distress or at risk of becoming so, the Bank of Cape Verde may determine, within a period set by it, the application of one or more corrective intervention measures in order to restore the financial stability of the credit institution concerned.

2. A credit institution whose equity capital is reduced below the legal minimum level or which fails to perform the solvency or liquidity ratios applicable to credit institutions shall be deemed to be in a situation of financial distress.

3. For the purposes of risk assessment referred in number 1, the Bank of Cape Verde shall consider, in the light of the principles and guidelines set out in article 49 of the Basic Law of the Financial System, and in article 147 of this act, the following circumstances:

   a) Probability of default of the minimum levels of capital adequacy or solvency ratios or liquidity applicable to credit institutions;
   b) Difficulties in liquidity which could jeopardize the smooth fulfilment of the obligations of the credit institution;
   c) The management board of the credit institution having ceased to offer guarantees of sound and prudent management;
   d) The accounting organization or the internal control system of the credit institution having serious shortcomings that do not allow proper evaluation of the financial situation of the credit institution.

Article 151
List of corrective action measures

Under the corrective action, the Bank of Cape Verde shall be responsible for:

   a) Applying one or more corrective measures provided for in article 95;
   b) Determining the submission of a restructuring plan by the credit institution concerned, in accordance with the provisions of this chapter;
   c) Determining the suspension or replacement of one or more members of the management board or of the supervisory board of the credit institution;
   d) Appointing a committee of inspection or a single inspector, in accordance with this chapter;
   e) Applying restrictions on the granting of credit and the investment of funds in certain types of assets, particularly in relation to operations with affiliates, with any entity that is the parent company of a credit institution or with its subsidiaries, as well as entities based in offshore jurisdictions;
   f) Applying restrictions to the receipt of deposits, depending on their arrangements and remuneration;

g) Enforcing the constitution of special provisions;
h) Prohibiting or limiting the payment of dividends;
i) Subjecting certain operations or certain activities to the prior approval of the Bank of Cape Verde;
j) Requiring the submission of a plan to change the debt conditions by the credit institution in question for the purpose of negotiating with their creditors;
k) Imposing additional reports;
l) Imposing the holding of an audit to the entire business of the credit institution or part thereof, by an independent entity designated by the Bank of Cape Verde, at the expense of the credit institution;
m) Requesting at any time a general meeting of shareholders of the institution and presenting proposals for resolutions.

Article 152
Restructuring plan

1. The restructuring plan referred in paragraph b) of the preceding Article shall be subject to approval by the Bank of Cape Verde in the time frame set by it.

2. The Bank of Cape Verde may at any time establish the appropriate conditions for the acceptance of the restructuring plan, including the increase or reduction of share capital or the sale of shares or other equity assets of the credit institution.

Article 153
Supervisory committee or single auditor

1. The supervisory committee designated by the Bank of Cape Verde pursuant to paragraph d) of article 151 is composed of a minimum of three members, one of which must be a certified auditor or a certified auditing firm, who presides, and the remaining auditors shall have academic knowledge appropriate to the performance of auditing and accounting duties.

2. Where the supervision of the credit institution is performed by a single auditor, the Bank of Cape Verde may, as an alternative to the preceding number, appoint an auditor, who must be a certified auditor or a certified auditing firm.

3. The supervisory committee or single auditor shall be paid by the credit institution.

4. The supervisory committee or single auditor shall monitor the compliance and implementation of the restructuring plan referred in article 152 and perform other duties assigned to them by the Bank of Cape Verde, also having the powers and duties conferred by law and by the respective Statutes to the supervisory board, which shall be suspended for the period of activity of the supervisory committee or single auditor.

5. The supervisory committee or single auditor shall keep the Bank of Cape Verde informed about its activity, by preparing and submitting reports as defined by the Bank of Cape Verde.

6. The supervisory committee or single auditor shall perform their duties for the period determined by the Bank of Cape Verde, for a maximum period of six months, renewable twice for successive periods of six months.

7. The remuneration of the members of the supervisory committee or single auditor shall be set by the Bank of Cape Verde.

8. The Bank of Cape Verde may at any time replace the members of the supervisory committee or single auditor appointed as well as end their functions, if reasonable grounds so justify it.

9. The responsibility of the members of the supervisory committee or single auditor for any actions taken in the exercise of their duties shall be subject to the specific discipline of the activity of the members of the supervisory board or, in the case of a certified auditor or company of certified auditors, to the specific discipline of the respective activity and professional status.

10. Collective or individual persons suspended or replaced pursuant to the preceding numbers shall immediately provide all information and assistance requested by the Bank of Cape Verde or by the new members appointed to the supervisory board.

CHAPTER III
INTERIM ADMINISTRATION

Article 154
Assumptions of the suspension of the management board and appointment of an interim administration

1. The Bank of Cape Verde may decide to suspend the management board of a credit institution and appoint an interim administration if any of the situations listed below occurs, which would place at serious risk the financial stability or solvency of the credit institution or constitute a threat to the stability of the financial system:

   a) Detection of a serious or repeated violation of laws or regulations that govern the activities of the bank;
   b) Verification of justifiable reasons to suspect the existence of serious irregularities in the management of the bank;
   c) Verification of justifiable reasons to suspect the inability of the shareholders or members of the management board of the bank to ensure sound and prudent management or to financially recover the credit institution;
   d) Verification of justifiable reasons to suspect the existence of other irregularities that put at serious risk the interests of depositors and creditors;
   e) Lack of cooperation from the members of the management board with the supervisory committee or the single auditor appointed under the preceding article;
   f) Failure or non-performance of the restructuring plan referred in article 152.

2. In appointing the members of the interim administration, the Bank of Cape Verde shall take into account criteria of suitability, experience and qualification in the exercise of functions in the financial sector.

Article 155

Duty to inform and cooperation from suspended administrators

Members of the management board suspended under the provisions of the preceding article shall immediately provide all information and assistance that is required by the Bank of Cape Verde or by the new members of the management board.

Article 156

Competence of the interim administration and exercise of duties

1. In addition to the powers and duties conferred by law and by the statutes of the credit institution intervened to the members of the management board, members of the interim administration are qualified to:

   a) Veto the decisions of the institution's other governing boards;
   b) Revoke decisions previously adopted by the institution's management board;
   c) Convene a general meeting of shareholders of the institution and determine the agenda;
   d) Promote a detailed assessment of the financial position of the financial institution in accordance with the assumptions set by the Bank of Cape Verde;
   e) Submit proposals to the Bank of Cape Verde for the financial recovery of the credit institution;
   f) Arrange immediate correction of any irregularities committed previously by the governing boards of the bank or any of its members;
   g) Adopt measures that are deemed fit in the interest of depositors and of the credit institution;
   h) Promote the agreement between shareholders and creditors of the bank in respect of measures that permit the financial recovery of the credit institution, including the renegotiation of debt conditions, the conversion of debt into equity, the reduction of capital to absorb losses, increasing the share capital or the sale of part of the business to another institution authorized to exercise the activity, and the execution of any other measures provided for in the restructuring plan referred in Article 151;
   i) Keep the Bank of Cape Verde informed about its activities and on the bank's management, including the development of reports as defined by it;
   j) Observe the general guidelines and strategic objectives set by the Bank of Cape Verde in order to carry out its functions;
   k) Provide all information and collaboration required by the Bank of Cape Verde on all matters relating to its business and to the credit institution;
   l) Other duties as determined by the Bank of Cape Verde.

2. The members of the interim administration shall carry out their duties for a period determined by the Bank of Cape Verde, in a maximum of six months, renewable twice, for successive periods of six months.

3. The remuneration of the members of the interim administration shall be set by the Bank of Cape Verde and supported by the credit institution intervened.

4. In the context of precautionary procedures which concern the suspension of decisions taken by members of the interim administration, for all legal purposes it shall be presumed that the loss resulting from the suspension is higher than that derived from the implementation of the resolution.

Article 157

Responsibilities of the Bank of Cape Verde under the interim administration

1. The Bank of Cape Verde may subject the practice of certain acts by members of the interim administration to its prior approval.

2. The Bank of Cape Verde may at any time replace the members of the provisional administration or terminate their functions, if reasonable grounds exist.

3. With the appointment of an interim administration, the Bank of Cape Verde may also:

   a) Appoint a supervisory committee or single auditor, applying the provisions of article 153;
   b) Temporarily exempt the timely fulfilment of obligations previously undertaken by the institution, with a maximum duration of six months, renewable twice for successive periods of six months.

4. The provisions of paragraph b) above shall not preclude the retention of all rights of creditors against the obligors or guarantors.

5. Subject to the verification of other legal requirements to this effect, the unenforceability of credit resulting from the provisions of paragraph b) of number 3 shall not prejudice the right of creditors to invoke the compensation of their credits with mutual credits over the credit institution.

Article 158

Responsibility of the members of the interim administration

Members of the interim administration are liable for damage resulting from acts or omissions in accordance with the provisions of numbers 3 and 4 of article 148.

Article 159
Effects of the appointment of the provisional administration under the terms and executions

Whenever an interim administration under this chapter is appointed, and while it lasts, all executions against the credit institution, including tax executions or those that affect its assets, without exception of those that are designed to collect credits with preference or privilege, shall be suspended for a maximum period of one year and the deadlines and periods of limitation or peremptory time limits invoked by the credit institution shall be interrupted.

CHAPTER IV
RESOLUTION

Section I
Principles and specific purposes

Article 160
Purposes of resolution measures

The Bank of Cape Verde may apply, in relation to the banks with headquarters in Cape Verde, the measures provided for in this chapter, with the aim of pursuing any of the following purposes:

a) To preserve the stability of the financial system;
b) To ensure the continued provision of essential financial services;
c) To protect against systemic risk;
d) To safeguard the interests of taxpayers and public funds; and
e) To safeguard the confidence of depositors.

Article 161
Guiding principles of resolution measures

1. In the application of resolution measures, an effort is made to ensure that the shareholders, primarily, and bank lenders mostly assume the losses of the institution in question, according to their hierarchy and on equal terms within each class of creditors.

2. The preceding number shall not apply to credits included within the coverage of the guarantee system instituted pursuant to article 51 of the Basic Law of the Financial System.

3. In any decision taken under this chapter, the Bank of Cape Verde shall take into account the specific purposes underlying the resolution measures and the principle referred in number 1.

Section II

Assumptions, resolution measures and complementary measures

Article 162

Assumptions of application and resolution measures

1. When a bank fails to comply with its obligations, or runs the serious risk of not meeting the requirements for maintaining authorization for the exercise of its business, the Bank of Cape Verde may implement the following resolution, if this proves essential for the continuation of any of the purposes of public interest provided for in article 160:

   a) Partial or total sale of the business to other institution authorized to carry out the activity of the institution in question;
   b) Transfer of all or part of the activity to one or more banks of transition.

2. For the purposes of the preceding numbers, it is assumed that a bank is in serious jeopardy of not meeting the requirements for maintaining authorization for the exercise of its activity when any of the following situations arises, which the Bank of Cape Verde shall appreciate in light of the purposes set out in article 160:

   a) The bank has losses or there are reasonable grounds to believe that in short term it may have losses likely to consume the equity capital;
   b) The assets of the bank become lower or there are reasonable grounds to believe that in the short term their obligations will become lower;
   c) The bank is unable to meet its obligations, or there are reasonable grounds to believe that in the short term it may be unable to do so.
   d) The restructuring plan referred in article 152 is not enough to solve the bank's problems;
   e) The shareholders and creditors of the bank show resistance to cooperate with the interim administrators in implementing the measures provided for in article 156.

3. The Bank of Cape Verde may combine the implementation of the resolution measures described in number 1 or apply them separately or alternately.

Article 163

Suspension of the management and supervisory boards

1. When the Bank of Cape Verde decides to apply a resolution measure, the members of the management and supervisory boards of the bank in question shall be suspended and if the Bank of Cape Verde so decides, the certified auditor or company of certified auditors responsible for issuing the legal certification of accounts shall also be suspended.

2. In the case referred to above, the Bank of Cape Verde shall appoint the members of the management board without the need for any statutory limit, and a supervisory committee or single auditor, which shall be governed, *mutatis mutandis*, respectively, by the provisions of article 154 and following.

3. If, under the provisions of number 1, the Bank of Cape Verde has suspended the certified auditor or company of certified auditors, it shall appoint another certified auditor or company of certified auditors to perform such functions, and those who have been suspended shall be required to provide all information that is requested of them by the Bank of Cape Verde, as well as to provide collaboration that is requested of them by the Bank of Cape Verde for the implementation of resolution measures.

Article 164
Other measures

1. Simultaneously with the application of a resolution measure, the Bank of Cape Verde may determine the application of the following measures to banks covered by the measure, provided they are deemed necessary to accomplish the purposes provided for in article 160:

   a) Temporary exemption from compliance with prudential standards;
   b) Temporary exemption from the expiry period of previous obligations;
   c) Temporary closure of branches and other premises in place that have transactions with the public.

2. The provisions of paragraph b) above shall not preclude the retention of all rights of creditors against the obligors or guarantors.

3. Notwithstanding the verification of other legal requirements to this effect, the unenforceability of credit resulting from the provisions of paragraph b) of number 1 shall not preclude the right of creditors to invoke the compensation of their credits with mutual credits over the bank.

4. The measures provided for in this article shall have a maximum duration of six months, renewable twice for successive periods of six months.

Section III
Transfer of the business to another authorized institution

Article 165
Partial or total transfer of the business to another authorized institution

1. The Bank of Cape Verde can determine the transfer of all or part of the assets, liabilities and off-balance sheet assets under management of a bank to one or more authorized institutions to undertake the activity in question.

2. The transaction referred in the preceding number shall not require the consent of the shareholders of the bank intervened or of their creditors or counterparties in contracts involving a transfer.

3. For the purposes of number 1, the Bank of Cape Verde shall invite potential buyers to make an offer, seeking to ensure the transparency of the process and equitable treatment of stakeholders, as appropriate to the speed imposed by circumstances.

4. Access to relevant information on the financial position of the bank shall immediately be provided to potential purchasers for the purpose of the valuation of assets, liabilities and off-balance sheet assets under management to be sold and to this effect the duty of confidentiality set out in article 32 of the Basic Law of the Financial System shall not been invoked against them, but without prejudice to they themselves keeping secrecy with regard to the information in question.

5. For the purposes of the sale specified in number 1, the assets, liabilities and off-balance sheet assets under management selected by the Bank of Cape Verde shall be subject to an assessment, to be reported at time of sale, conducted by an independent entity designated by the Bank of Cape Verde, at the expense of the bank intervened.

Article 166
Participation of the guarantee system

1. The Bank of Cape Verde shall determines, if necessary, the amount of financial support to be provided by the guarantee system to be created in accordance with article 51 of the Basic Law of the Financial System, for the purpose of facilitating the sale specified in number 1 of the preceding article.

2. The funding to be provided by the guarantee scheme under the preceding number shall be limited so as not to jeopardize the guarantee function of deposits performed by it.

Article 167
Counterpart of the transfer

1. If the value set on the disposal of assets, liabilities and off-balance sheet assets under management transferred does not correspond demonstrably to their fair value, the acquiring institution may, after authorization from the Bank of Cape Verde, return such assets, liabilities, elements and off-balance sheet assets under management, in compliance with the provisions of number 5 of article 175, with the corresponding balance of values.

2. As an alternative to the return as provided in the preceding number, the Bank of Cape Verde may propose to the acquiring institution the payment corresponding to the difference between the value stipulated for the sale and the fair value of the assets, liabilities and off-balance sheet value of assets under management.

3. The payment referred in the preceding number may be made by transfer to the acquiring institution of new assets from the transferor bank or funds from the guarantee scheme under the provisions of number 1 of the preceding article.

4. The proceeds from the sale, if positive, shall revert to the transferor bank.

Section IV
Transfer of the business to bridge banks

Article 168
Partial or total transfer of the business to bridge banks

1. The Bank of Cape Verde may determine the transfer of all or part of the assets, liabilities and off-balance sheet assets under management to one or more bridge banks, made in order to allow their subsequent transfer to another institution authorized to carry out the activity in question.

2. The transaction referred in the preceding number shall not require the consent of the shareholders of the bank intervened, or their creditors or counterparties in contracts which involve a transfer.

Article 169
Bridge banks

1. A bridge bank is a credit institution with the legal nature of a bank, whose equity capital is held by the transfer of assets and through cash delivery by the guarantee system to be created in accordance with article 51 the Law on the Financial System, using its own funds.

2. Bridge banks shall be constituted by resolution of the Bank of Cape Verde, who shall approve the statutory rules.

3. After the resolution mentioned in the preceding number, the bridge bank is authorized to conduct the activities described in number 2 of article 20 of the Basic Law of the Financial System, as determined by the Bank of Cape Verde.

4. The bridge bank shall have capital of no less than the minimum required by notice of the Bank of Cape Verde, and shall comply with applicable standards for banks.

5. The bridge bank can start business without complying with the legal requirements related to the commercial registration and other formal procedures provided by law, without prejudice to the subsequent performance of said procedures as soon as possible.

6. The Bank of Cape Verde shall, by notice, establish the governing and operating rules of bridge banks, without prejudice of the application of the Commercial Companies Code, *mutatis mutandis*, to the objectives and nature of these institutions.

7. The members of the management board or supervisory board of the bridge bank, whose appointment is the responsibility of the Bank of Cape Verde, shall:

a) Comply with all guidelines and recommendations transmitted by the Bank of Cape Verde, particularly regarding management decisions of the bridge bank;
b) Meet in the exercise of its functions, the management criteria that ensure the maintenance of low risk levels.

8. The bank shall have a limited transition period of two years, renewable for periods of one year, based on reasonable grounds of public interest, particularly if there are still risks to financial stability or there are pending negotiations for the sale of its assets, liabilities and off-balance sheet assets under its management, and may not exceed the maximum duration of four years.

Article 170
Patrimony of the bridge bank

1. The Bank of Cape Verde shall select the assets, liabilities and off-balance sheet assets under management to be transferred to the bridge bank at the time of its constitution.

2. Any obligations incurred by the credit institution against persons originating or excluded from the protection of the guarantee system entities may not be transferred to the bridge bank.

3. The assets, liabilities and off-balance sheet assets under management selected under number 1 shall be subject to an assessment, made by an independent entity designated by the Bank of Cape Verde, at the moment of transfer with a deadline set by the Bank, at the expense of the credit institution.

4. After the transfer referred in number 1, the Bank of Cape Verde may at any time:

a) Transfer other assets, liabilities and off-balance sheet assets under management of the original credit institution to the bridge bank;
b) Transfer assets, liabilities, and off-balance sheet assets under management of the bridge bank to the original credit institution.

Article 171
Financing of the bridge bank

1. The Bank of Cape Verde shall determine the amount of financial support to be granted by the guarantee system to be created in accordance with article 51 of the Basic Law of the Financial System for the creation and development of the activities of the bridge bank, by lending money to the bridge bank for any purpose or making available funds deemed necessary to carry out the capital increase of the bridge bank.

2. The Bank of Cape Verde may request the participation of the guarantee system in the transfer of guaranteed credits to a bridge bank.

3. The total amount of balance sheet items and liabilities to be transferred to the bridge bank shall not exceed the total value of assets transferred from the originating credit institution, plus, if applicable, the revenue from the guarantee system.

4. The funding to be provided by the guarantee scheme under this article, including the amount used in the subscription of shares in bridge banks under number 1 of article 169 shall be limited so as not to jeopardize the function of deposit insurance carried out by the guarantee scheme.

Article 172
Sale of assets of the bridge bank

1. Without prejudice to the provision of the acts that fall under the management powers of the directors of the bridge bank, when it considers that the necessary requirements to dispose of part or all the assets, liabilities, off-balance sheet and assets under management have been transferred to the bridge bank, the Bank of Cape Verde shall invite other authorized institutions to carry out the activity in question to make an offer, ensuring the transparency in the process.

2. The proceeds from the sale shall be first allocated proportionally to refund the guarantee system of all amounts made available under number 1 of the preceding article.

3. After the return of the amounts specified in the preceding number, any remaining proceeds of the sale shall be returned to the originating bank or its insolvent, should it have gone into liquidation.

4. After the sale of all the assets, liabilities and off-balance sheet assets under management transferred to the bridge bank and the allocation of the proceeds of their sale pursuant to numbers 2 and 3, the bridge bank shall be dissolved by the Bank of Cape Verde.

5. If all the assets, liabilities, and off-balance sheet assets under management transferred to the bridge bank cannot be disposed of, the Bank of Cape Verde may decide that it enter into liquidation, following the terms applicable to the extrajudicial settlement of credit institutions.

Section V
Common provisions

Article 173
Characteristics of the decision to sell

Decisions that determine the sale or transfer provided for in paragraphs a) and b) of number 1 of article 162:

a) shall take effect regardless of any legal or contractual provisions to the contrary, being a sufficient basis for the fulfilment of any legal formalities related to their transactions;
b) shall not depend on the prior consent of the bank's shareholders, or the creditors, or of the parties in contracts related to the assets, liabilities and off-balance sheet assets under management to be sold, and may not justify the exercise of any right of pre-expiring stipulated in the contracts in question.

Article 174
Continuity of operations

The continuity of operations related to the assets, liabilities and off-balance sheet assets under management that have been sold or transferred in accordance with paragraphs a) and b) of number 1 of article 162, shall be guaranteed, namely:

a) The acquiring institution shall be considered for all legal and contractual purposes, as successor to the rights and obligations transferred from the transferor bank;
b) The transferor bank and any company included in the same group that provides services within the scope of the divested business shall provide all information requested by the acquiring institution and ensure that it has access to the information systems related to the activity transferred and remuneration agreed between the parties, and that it continues to provide the services that the acquiring institution deems necessary in the regular development of the divested business.

Article 175
Quittance and novation agreements

1. The application by the Bank of Cape Verde of any measure of resolution shall determine the suspension, for a period of forty-eight hours from the time of notification, or, if earlier, as from the announcement that makes public the decision of the Bank of Cape Verde, of the right of acceleration, stipulated under quittance and novation agreements netting agreements, contracts where the bank concerned is a party, when this right is based on the application of the resolution measure in question.

2. After the period provided for in the preceding number, and in relation to contracts that have been sold or transferred as a result of the transactions listed in paragraph a) and b) of number 1 of article 162, the right of acceleration stipulated under quittance and novation netting agreements may not be exercised by the counterparties of the credit institution on the grounds of application of the resolution measure.

3. Notwithstanding the preceding number, the counterparties in contracts covered by quittance and novation netting agreements that have been sold or transferred as a result of the transactions listed in paragraph a) and b) of number 1 of article 162 shall maintain, in relation to the transferee bank, the right to early termination on grounds other than under the previous number.

4. After the period referred in number 1, the rights arising under contracts that incorporate quittance and novation netting agreements are not affected in any way by virtue of the application of resolution measures.

5. The possible disposal or partial transfer of the business of the bank in accordance with paragraphs a) and b) of number 1 of article 162, shall not impair the full assignment of the contractual positions of the transferor bank with the transfer of liabilities associated with assets transferred, in the case of contracts containing clauses for quittance or novation.

Article 176
Settlement scheme

If, after application of any resolution measure, the Bank of Cape Verde considers that the purposes provided for in article 160 have been met, and verify that the bank does not meet the requirements for maintaining authorization for the exercise of their activity, it can revoke the authorization of the bank that has been under intervention, following the administrative settlement scheme provided for in this law for credit institutions.

Article 177
Litigation means and means of public interest

1. Without prejudice to article 18 of the Basic Law of the Financial System, the decisions of the Bank of Cape Verde that adopt resolution measures shall be subject to the legal proceedings provided for the legislation of administrative litigation, reservation done to the specialties provided for in the following numbers, considering the relevant public interests that determine their adoption.

2. Only holders that individually or jointly reach at least 5% of the voting rights in the general meeting of shareholders of the institution shall be entitled to legal proceedings on injunctive process.

3. The appraisal of issues that require demonstration by expert evidence regarding the valuation of assets and liabilities which are involved in the resolution measures adopted shall be carried out in the main proceedings.

4. The Bank of Cape Verde may invoke, on executing sentences of annulment of any acts under this chapter, legitimate cause of non-performance under the law of administrative litigation.

Article 178
Assessment and calculation of indemnities

1. For the purposes of any litigation which involves the discussion of the payment of compensation related to the adoption of the measures envisaged in number 1 of article 162, the added value resulting from any public financing support, including that which is

provided by the guarantee system established in accordance with article 51 of the Basic Law of the Financial System, shall not be taken into account.

2. Regardless of its intervention as a party, the task of the Bank of Cape Verde is to present in the cases mentioned in the preceding number an evaluation report covering all aspects of prudence, that may prove to be relevant to the calculation of compensation, in particular as regards the future ability of the bank to meet the general licensing requirements.

3. It is the task of the court judge to notify the Bank of Cape Verde for the purposes of the preceding number, without prejudice to the right of its unofficial initiative.

Article 179
Urgency of measures

1. Decisions of the Bank of Cape Verde adopted under this title shall be considered urgent and for the purposes of the law of administrative litigation, and there shall be no prior hearing of interested parties, without prejudice to the provision in the following number.

2. If it is believed that there is no risk that the implementation of the decision can be compromised, the Bank of Cape Verde shall hear the management board of the institution and shareholders who are holders of qualifying positions on capital, with no need for any formal notification, on relevant aspects of the decisions to be taken, on terms, dates, and through the communication channels that are adequate to the urgency of the situation.

Article 180
Suspension of implementation and timing

When a resolution measure is adopted, and while it lasts, all executions, including fiscal executions, against the institution, or that affect its assets shall be suspended for a maximum period of one year, without excluding those whose purpose is the recovery of debts with preference or privilege, and the dates of prescription and expiry shall be interrupted, to which the operated bank can oppose itself.

Article 181
Subsidiaries and branches of banks headquartered abroad

Before the decision to apply any measure under this heading to subsidiaries and branches in Cape Verde of banks headquartered abroad, or if this is not possible, immediately after, the Bank of Cape Verde shall inform the competent authorities of the foreign country of the measures adopted.

Article 182
Termination of proceedings

The foreclosure of the process as a result of applying some measure provided for in Chapter IV of this heading may be subject to the provisions of article 134, under the conditions prescribed by the Bank of Cape Verde, by notice.

HEADING VII
MARKETS

CHAPTER I
PAYMENT SYSTEMS

Article 183
Regulation

Payment systems are subject to special regulation.

CHAPTER II
FOREIGN EXCHANGE MARKET

Article 184
Regulation

The exchange market is subject to special legislation.

CHAPTER III
MONETARY SYSTEM

Article 185
Unit of account

The unit of account in the Republic of Cape Verde is the Cape Verde Escudo, or "escudo", without subdivisions.

Article 186
Coin

The legal tender of the coins is limited, it being the responsibility of the regulatory authority to set this limit.

Article 187
Central Bank Currency

The legal tender of the currency of the Central Bank, either in the form of a bank note, regardless of its denomination, or in book money form, is limited.

Article 188
Seizure of suspicious currency and retention of counterfeit currency

The Bank of Cape Verde shall collaborate with law enforcement authorities for the apprehension of suspicious currency and retention of counterfeit currency.

Article 189
Complementary legislation

The monetary system is subject to special legislation.

CHAPTER IV
OPERATIONS WITH PRECIOUS STONES AND METALS

Article 190
Regulation

Trading in precious metals and stones is subject to a notice approved by the Bank of Cape Verde.

HEADING VIII
FINANCIAL ACTIVITIES, SERVICES AND INSTRUMENTS

CHAPTER I
FINANCIAL SERVICES

Section I
General provisions

Article 191
Form

1. Contracts for financial services shall be in writing.

2. The nullity of contracts alleging breach of written form can only be invoked by the customer.

Article 192
Minimum content of contracts

1. Contracts for the provision of financial services shall at least contain:

a) The full identification of the parties, addresses and telephone numbers;
b) An indication that the financial institution is authorized;

c) A general description of the services provided, as well as the identification of financial instruments covered by the services provided;
d) An indication of the rights and duties of the parties, including the legal nature and manner of its compliance, as well as consequences attributable to either party for a breach of contract;
e) An indication of the law governing the contract;
f) An indication of the rights and duties of the parties, including the legal nature and manner of its compliance, as well as consequences attributable to either party for a breach of contract;
g) An indication of the law governing the contract;
h) Information on the existence and the operation of the service of the financial institution responsible for receiving complaints from investors as well as the possibility of complaining to the supervisory authority.

2. The Bank of Cape Verde shall regulate, by notice, the content to be observed by the general contractual clauses included in contracts for the provision of financial services.

Section II
Payment services

Article 193
Scope

Payment services are:

a) Services enabling cash deposits in a payment account as well as all operations necessary for the management of the account;
b) Services enabling cash withdrawals from a payment account as well as all operations necessary for the management of the account;
c) The execution of payment operations, including transfers of funds on a payment account opened with the payment service provider of the user or other providers of payment services for:
   i) The execution of direct debits, including occasional debits;
   ii) The execution of payment operations using a payment card or similar device;
   iii) The execution of bank transfers, including permanent orders.
d) The execution of payment operations in which the funds are covered by a credit line granted to a user of payment services, such as:
   i) The execution of direct debits, including occasional debits;
   ii) The execution of payment operations using a payment card or a similar device;
   iii) The execution of bank transfers, including permanent orders.
e) The issuance or acquiring of payment instruments;
f) The submission of funds;
g) The execution of payment operations where the consent of the payer to execute the payment operation is communicated by means of any telecommunication, digital or it device and the payment is made to the network operator or the telecommunications or

computer system, acting exclusively as an intermediary between the payment service user and the supplier of goods and services.

Article 194
Enabling act

The Bank of Cape Verde shall determine, by notice, the time limits of the execution of payment orders and other rules which govern the provision of payment services.

Article 195
Revocation

1. A payment order may not be revoked by the payment service user after receipt by the provider of the payer services.

2. The preceding number shall not apply:

   a) In the case of a direct debit, in which the revocation may occur by the end of the business day agreed for debiting the funds;
   b) In the case of a transfer scheduled for a later date, in which the revocation may occur until the end of the business day preceding the agreed date;
   c) Unless otherwise provided for in the contract.

Article 196
Liability for non-compliance

1. If a payment order is issued by the payer, the responsibility for the proper execution of the payment transaction to the payer shall be up to the respective provider of payment services.

2 If a payment order is initiated by or through the payee, the responsibility for non-compliance shall rest with the respective provider of payment services.

Section III
Orders

Article 197
Receipt

As soon as an order is received to carry out financial operations, financial institutions shall:

   a) Check the legitimacy of the originator;
   b) Adopt measures allowing, without any doubt, the establishment of the time of receipt of the order.

Article 198
Form

1. Orders may be given orally or in writing.

2. Orders given orally shall be reduced to writing by the receiver and a copy of the order shall being immediately be sent to the receiver and, if in person, they shall be signed by the originator.

Article 199
Revocation and amendment

Orders may be revoked or modified as long the revocation or modification reaches the person who should execute the order before the start of the implementation period.

Article 200
Execution

1. Orders shall be executed immediately in the terms stated by the originator.

2. In the absence of indications from the originator, orders shall be executed under the best conditions provided by the market, immediately, or at the most appropriate time.

CHAPTER II
FINANCIAL CONTRACTS

Section I
Opening of an account and deposit

Article 201
Minimum content

The Bank of Cape Verde shall determine, by notice, the minimum content that must be included in the account opening and bank deposit contracts.

Article 202
Concept

1. A bank deposit is a contract whereby a person, called depositor, delivers to a bank, called custodian, a sum of money, financial instruments or other movable property, so that the depositary keeps them safe and has the duty of refunding them under the conditions established contractually.

2. In cash deposits, the depositary shall ensure the full refund of the amount deposited.

3. The term “deposit” may not be used in the marketing of any product that does not correspond to the concept referred in the preceding number.

4. The Bank of Cape Verde, by notice shall lay down the rules for the deposit of precious metals and jewels.

Article 203
Constitution

A deposit shall only be constituted with the delivery of the goods deposited.

Article 204
Modalities

Cash deposits may consist of one of the following modalities:

a) Sight deposits;
b) With prior notice;
c) Term deposits;
d) Mixed deposits;
e) Special deposits;
f) Other types of deposits, as determined by notice by the Bank of Cape Verde.

Article 205
Scheme

The rules governing irregular deposits included in the Civil Code shall apply to cash deposits.

Section II
Bank credit

Article 206
Types of credit

1. Credit may be granted on the basis of the following contracts:

a) Mutual;
b) Deferred payment;
c) Credit card contract;
d) Opening of credit;
e) Overdraft;
f) Factoring;
g) Leasing; or
h) Other types of contracts, as defined, by notice, by the Bank of Cape Verde.

2. Factoring and leasing are subject to special legislation.

3. The Bank of Cape Verde shall establish, by notice, the content of credit agreements as well as the minimum information to be provided, in each case, by credit institutions to their counterparts.

Article 207
Opening of credit

1. The agreement between a credit institution, called lender, and its customer, called the credited party, through which the former provides the latter during a given period of time and up to a certain maximum value, with a sum of money, with the credited party being bound to return the same amount in full, is called the opening of credit.

2. Notwithstanding the general requirements, prior to entering into a credit agreement, the customer shall be informed about the commission and immobilization and the right to renew the maximum credit limit in case of subsequent repayments.

Article 208
Credit contracts entered into with consumers

The credit contracts concluded with consumers shall be subject to special legislation.

Article 209
Mortgage loans

1. Notwithstanding the following numbers, mortgage loans are subject to special legislation.

2 A standardized information sheet shall be delivered to the customer when the credit simulation is drawn up and when it is approved.

3 The Bank of Cape Verde shall lay down, by notice, the contents of the standardized information sheet relating to the mortgage loan contract.

4 The interest rate of mortgage loans shall be rounded to the thousandth.

5 Should there be life insurance associated with mortgage loans, the validity and effectiveness of the insurance policy shall depends on it validity and effectiveness.

Article 210
Linked credit

It is prohibited to make the celebration of the consumer credit agreement dependent on the acquisition of other financial products or services.

Article 211
Microcredit

Microcredit is subject to special legislation.

Section III
Guarantees

Article 212
Independent guarantees

1. In independent guarantees only exceptions arising from the guarantee contract shall be enforceable.

2. Guarantees in which the credit institution undertakes to pay at first request may be established.

Article 213
Financial lien

1. The provisions of this Article shall apply to a financial lien arrangement where:

   a) The committed object has been delivered, transferred, registered or is otherwise in the possession or under the control of the pledge or a person acting on their behalf;
   b) The pledge is a financial institution.

2. Financial lien does not involve transfer of ownership of the property committed to the beneficiary.

3. The articles of incorporation of the financial lien may predict the power of disposition of the collateral in favour of the pledge, unless where the object of the lien are credit claims.

4. Under financial lien, the collateral taker can proceed with its execution, taking possession of the financial instruments used as collateral if:

   a) This has been agreed between the parties;
   b) There is an agreement between the parties relating to the valuation of the financial instruments or credit pledged as collateral.

5. In the case of the preceding number, the collateral taker shall be obliged to repay the provider the amount corresponding to the difference between the value of the collateral and the amount of financial obligations guaranteed.

Article 214
Pledge of bank account balance

A pledge of the bank account balance can be made if:

a) The balance of the deposit is assigned to the payment of certain debt;
b) The depositor expressly authorizes in writing the debit of overdue debts;
c) The lender undertakes not to collect the amount that exceeds the designated overdue debt.

Article 215
Chattel mortgage

1. A chattel mortgage which involves the transfer of ownership with a guarantee function is allowed.

2. The reporting, which involves the acquisition, in cash, of financial instruments and the simultaneous sale of instruments of the same nature is a form of chattel mortgage, over a period of time, but at a fixed price, with the purchase and resale made to the same person.

3. The Bank of Cape Verde shall, by notice, lay down the rules that govern the reporting of financial instruments held with the intervention of financial institutions.

Section IV
Contracts on cards and transfers

Article 216
Contracts on cards and transfers

1. Bank cards can be:

a) Debit cards;
b) Credit cards;
c) Mixed cards.

2. The use of a bank card requires a contract between the issuing credit institution and the cardholder, which is called the use of bank card contract.

3. The use of bank card contract is not indefinite, having a maximum period fixed by the notice of the Bank of Cape Verde.

4. The provisions of this article shall apply to contracts on bank transfers in telephone banking through the Internet or through another phone or computer terminal.

Article 217

Loss, misappropriation or unauthorized use of the card or banking codes

1. The customer is obliged to immediately notify the issuer of the loss, theft, misappropriation or unauthorized use of its credit card or banking access codes and authorization.

2. The issuer shall block access of the card immediately upon notification.

3. The Bank of Cape Verde may, by notice, set an amount of losses that may be incurred by the customer until the notification referred in number 1.

Section V
CONTRACTS OF INTERMEDIATION IN FINANCIAL INSTRUMENTS

Article 218

Assistance and placement

1. The financial institution entrusted with supporting a public offering shall advise the offered on the terms of the offer, particularly as regards the timing and price, and ensure compliance with legal and regulatory requirements, in particular regarding the quality of information transmitted.

2. Under the placement agreement, the financial institution shall strive to distribute the securities that are offered to the public, including the receipt of orders for subscription or purchase.

3. In the placement contract, the financial intermediary may also be bound to acquire, in whole or in part, for themselves or others, securities that have not been subscribed or acquired by the recipients of the offer.

4. Under the underwriting agreement, the financial institution shall buys securities that are offered in a public offering and shall undertake to place them at its own risk, under the terms agreed with the issuer.

Article 219

Registration and deposit

1. Contracts for the registration or deposit of securities shall mention the obligations of the financial institution under the law and regulatory standards.

2. In the absence of contractual provisions to the contrary, the contract may require the financial institution to provide the services relating to the rights that are inherent to registered or deposited securities.

Article 220
Portfolio management

1. For the management contract of an individualized portfolio of financial instruments, the financial institution undertakes to:

   a) Perform all acts for the valuation of the portfolio;
   b) Exercise the rights attached to the financial instruments comprising the portfolio.

2. The portfolio management contract shall include, at least:

   a) The initial composition of the portfolio;
   b) The type of financial instruments that can comprise the portfolio;
   c) The acts that the manager can or should practice on behalf of the customer;
   d) The degree of discretion granted to the manager;
   e) The management actions that can be performed via a third party;
   f) The frequency of information on the portfolio's situation;
   g) The list of instruments that should be specially reported to the customer;
   h) The criteria for determining the fees due to the financial intermediary.

Article 221
Consulting in financial instruments

In consulting contracts for investment, consultants shall:

   a) Inform the consulent of the risks involved in the investment;
   b) Provide the consulent with the estimated cost of the operations to be carried out and the consulting services;
   c) Inform the consulent of the existence of any interest of the consultant who directly or indirectly relate to the consultation;
   d) Issue a written note for each consultation, with a brief indication of the subject of the consultation and identification of the individual who paid the fees.

Section VI
Insurance contracts

Article 222
Regulations

The insurance contract is subject to special legislation.

CHAPTER III
FINANCIAL INSTRUMENTS

Article 223
Securities

Securities are regulated by the Securities Market (CMVM) legislation and complementary regulation.

Article 224
Concept and types of complex financial instruments

1. Complex financial instruments are financial products that combine in their structure characteristics associated with at least two of the following financial instruments or contracts:

   a) Bank deposits;
   b) Financial instruments;
   c) Insurance contracts.

2. The following are particularly complex financial instruments:

   a) Structured deposits;
   b) Life insurance linked to investment funds.

Article 225
Informative note

1. The distribution of complex financial instruments shall be preceded by personal delivery to customers of an information sheet that contains a description of the characteristics of the instrument and associated risks.

2. The Bank of Cape Verde shall determine, by notice, the minimum content that the notice must observe.

Article 226
Advertising

The advertising associated with complex financial instruments, regardless of their means of support, shall be approved in advance by the Bank of Cape Verde.

Article 227
Securitization

Securitization is subject to special legislation.

HEADING IX
OFFENCES AND PENALTIES

CHAPTER I
CRIMINAL OFFENCES

Article 228
Unlawful exercise of activity

1. Whosoever, not being enabled with proper authorization, to carry out an activity that involves receiving from the public, on their account or on behalf of others, deposits or other repayable funds shall be punished with imprisonment of up to five years.

2. Whosoever, in the activity unlawfully carried out, besides receiving deposits or other repayable funds, grants credit on their own account or on behalf of others, shall be punished with imprisonment of two to six years.

3. Whosoever carries out, without permission, on their own account or on behalf of others, another activity that is the exclusive object of a financial institution, shall be punished with imprisonment of up to three years.

4. The maximum of the penalties set forth in the preceding numbers shall be halved in the case of an attempt or frustration.

Article 229
Closing and Settlement

1. Regardless of the penalties provided for in the preceding Article, the Bank of Cape Verde shall provide for the immediate cessation of illegal activities and also determine the immediate closure of any premises where said activities are carried out.

2. For purposes of the preceding number, the provisions of article 94 shall apply.

3. The Bank of Cape Verde may still request in court the dissolution and liquidation of companies or other legal persons carrying out the activities mentioned in the preceding article.

4. The Bank of Cape Verde may subject the liquidation of the companies referred in the previous to the administrative settlement regime.

Article 230
Breach of professional secrecy

1. The breach of the duty of secrecy imposed in article 32 of the Basic Law of the Financial System, without prejudice to the exceptions provided, in this law and in complementary

legislation, shall constitute the crime of violation of professional secrecy punishable under the Penal Code.

2. The preceding number shall not affect the inherent civil and disciplinary liability.

CHAPTER II
ADMINISTRATIVE OFFENCES AND SANCTIONS

Article 231
Fines

The following fines are applicable by the Bank of Cape Verde to financial offences provided for in this law, as well as in complementary legislation:

a) Between 50,000$00 (fifty thousand escudos) and 12.500.000$00 (twelve million five hundred thousand escudos) or between 200,000$00 (two hundred thousand escudos) and 50.000.000 $ 00 (fifty million escudos), depending if applied to a natural or legal person, when the offences are classified as simple;
b) Between 100,000$00 (one hundred thousand escudos) and 25.000.000$00 (twenty five million escudos) or between 400.000$00 (four hundred thousand escudos) and 100.000.000$00 (one hundred million escudos), depending if applied to a natural or legal person, when the offences are classified as serious;
c) Between 400.000$00 (four hundred thousand escudos) and 100.000.000$00 (one hundred million escudos) or between 1.600.000$00 (one million six hundred thousand crowns) and 400.000.000$00 (four hundred million escudos, depending if applied to a natural or legal person, when the offences are classified as very serious.

Article 232
Simple offences

Simple offenses include, in addition to those that are provided for in complementary legislation:

a) The use of a corporate name or firm without complying with Article 26 of the Basic Law of the Financial System, with this law and with other regulations, warnings and instructions that exercise it;
b) The omission, within legal terms, of mandatory publications;
c) Failure to comply with the accounting rules and procedures prescribed by law or by the Bank of Cape Verde when this does not result in damage to the knowledge of the financial position of the entity in question;
d) A violation of the duties of the organization when it does not result in damage to the quality of financial services provided;
e) A violation of the rules of conduct and duties under this Act or supplementary legislation that refer to its penalties, as well as failure to comply with the specific rules issued by the Bank of Cape Verde to ensure compliance;

f) A violation of the requirements of this law and the specific legislation governing the activities of financial institutions, not predicted in the preceding paragraphs, as well as regulations, notices, instructions and decisions that give effect to these principles.

Article 233
Serious offenses

Serious offenses include, in addition to those that are provided for in complementary legislation:

a) The violation of the rules relating to the subscription or realization of the equity capital, on timing, amount and form of representation;
b) Changing of statutory rules without precedent proper authorization;
c) The acquisition of shares, securities or property by representative offices in violation of the provisions of paragraphs b) and c) of number 2 of article 19;
d) The accumulation by the management board of financial institutions of status positions in other companies, in defiance of the opposition of the Bank of Cape Verde pursuant to article 31;
e) The performance of duties as a member of the governing boards of financial institutions, in violation of legal requirements or determinations of the Bank of Cape Verde;
f) A violation of other incompatibilities established in this act or complementary legislation;
g) The violation of rules on advertising for activities, services and financial products;
h) Failure to communicate and inform due to the Bank of Cape Verde, on the deadline, and the provision of incomplete information;
i) A violation of the rules on subcontracting;
j) The violation for a period of less than thirty days of relationships and prudential limits prescribed by law or by the supervisory authority in the exercise of their respective powers;
k) Violation of disqualification from voting;
l) Failure to observe instructions and specific determinations issued and determined by the Bank of Cape Verde regarding advertising which does not respect the law and codes of conduct;
m) A violation of duties of information and assistance provided for in law, in relationships with customers;
n) Engaging in activity in violation of rules on the special register at the Bank of Cape Verde;
o) The omission of information or material required by the Bank of Cape Verde to holders of qualifying holdings and the members of the supervisory board;
p) Violation of the rules and requirements of government set out in articles 32 and 33;
q) A breach of the duty of segregation between the supervisory function and the review and legal certification of accounts;
r) A violation of the duties of the organization when it results in damage to the quality of financial services provided;

s) A violation of the duties of adoption of internal control systems, risk management and internal audit;
t) Violation of rules on lending and on recording of such transactions;
u) A violation of accounting rules and procedures prescribed by law or by the Bank of Cape Verde when it results in damage to the knowledge of the financial position of the entity in question;
v) Breach of the duty of acceptance of Cape Verde Escudo as legal currency;
w) Violation by financial intermediaries of the rules and obligations of conduct and organization of the present law and regulations, notices, instructions and decisions that give effect to these principles;
x) The violation by risk rating companies of the rules that govern their activity, under this law, regulations, notices, instructions and decisions that give effect to these principles;
y) Breach of the duty to verify the legitimacy of orders and adopt the measures needed to establish the time of receipt of orders;
z) Breach of the duty to put orders received orally in writing;
aa) The violation of the duty to execute orders on terms and conditions at the time indicated by the originator or, failing that, in the best conditions that the market makes possible;
bb) The provision of financial services without their contracts containing the minimum requirements of this law and regulations, notices, instructions and determinations that exercised it;
cc) The violation of limits on fees that may be charged by the credit institution for early compliance with credit agreements for its counterpart; and
dd) A violation of the prohibition f making the celebration of the acquisition of other financial products or services to consumer credit contracts.

Article 234
Very serious offenses

Very serious offenses include, in addition to those that are provided for in complementary legislation:

a) The exercise of activity by financial institutions not included in their legal object, namely, conducting operations that are specifically forbidden;
b) The fraudulent realization of the equity capital of financial institutions and equity capital allocated to subsidiaries of financial institutions with headquarters abroad;
c) The absence, or severe false accounting deficiencies and non-compliance with accounting, legal or regulatory rules, when it results in serious damage to the knowledge of equity or financial position of the entity in question;
d) Violation of the rules on loans to qualifying shareholders listed in Article 52;
e) Violation of the rules on conflicts of interest;
f) The commission of wrongful acts of ruinous management, to the detriment of depositors, investors and other creditors;

g) Failure to immediately communicate to the Bank of Cape Verde the inability to fulfil obligations, or risk of default, as well as the omission of communication of this failure required by law;
h) The illegitimate disobedience to determinations of the Bank of Cape Verde dictated specifically, under the law, as well as the practice of acts subject by law to prior assessment of the Bank of Cape Verde, where it has expressed his opposition;
i) The refusal or obstruction to the exercise of inspection of the Bank of Cape Verde;
j) The provision to the Bank of Cape Verde of false information, or incomplete information that could lead to erroneous conclusions with identical or similar effect that it would have false information over the same object;
k) The commission of acts which disturb or tend to disturb the credit system or the normal operation on the entity in question, or on the financial or foreign exchange market;
l) A violation of the duty of disclosure of qualified holdings;
m) The practice by qualifying shareholders of acts that prevent or hinder, in a serious way, the sound and prudent management of the entity in question;
n) Failure to comply with certain measures of the Bank of Cape Verde for the purpose of removing constraints to the potential application of corrective measures intervention or resolution;
o) Refusal of elements and information requested by the Bank of Cape Verde, under the operations and procedures of supervision;
p) Violation of measures and corrective actions required by the Bank of Cape Verde under the provisions of Article 95;
q) The refusal or obstruction to the stress tests that the Bank of Cape Verde decide to conduct;
r) Failure to submit or review plans for recovery or resolution, as well as the lack of implementation of the changes required by the Bank of Cape Verde to the plans;
s) Failure to perform audits or special examinations simplified historical financial information, as well as special examinations and analyses on the activities of the financial institution and its registration systems, internal control, risk management and governance, which have been required Bank of Cape Verde pursuant to the provisions of number 3 of article 89;
t) A violation for a period exceeding thirty days, of relationships on prudential limits prescribed by law or by the supervisory authority in the exercise of their respective powers;
u) A violation of the duty of disclosure of the draft of voluntary dissolution;
v) A violation by certified auditors or companies of certified auditing who provide auditing services to a financial institution on the duty to notify the Bank of Cape Verde of the facts relating to that institution referred in article 144;
w) Failure to comply with corrective measures determined on intervention by the Bank of Cape Verde under the provisions of article 151;
x) The commission or omission of acts that would prevent or impede the implementation of corrective measures intervention or resolution;
y) The commission or omission of an act that would prevent or hinder the exercise of the powers and duties incumbent on the supervisory board and the auditor or members of the interim administration as provisioned, respectively, in articles 153 and 154;

z) A breach of the obligations of information and cooperation of members of the management board, supervisory board or certified auditors that have been suspended pursuant to paragraph c) of article 151, in articles 153 and 154 or in article 163.

Article 235
Liability for offenses

1. Natural or legal persons, regardless of their proper constitution, and unincorporated associations may be liable, jointly or not, for the practice of offenses.

2. Legal persons and entities that are equivalent to the ones addressed in the preceding number, shall be liable for the offenses when the acts were committed in the exercise of their duties or in their name or on their behalf, by members of their governing boards, trustees, representatives or employees.

3. The liability of legal persons and similar entities is deleted when the agent acts against their express orders or instructions.

4. The members of the management board of companies and similar entities, as well as those responsible for the management or supervision of areas of activity in which any offense is committed, incur in the penalty provided for the author, freely attenuated, when, knowing or should know the commission of the offense, do not take appropriate measures to stop it immediately, unless it falls under a more severe penalty under any other legal provision.

5. The liability of legal persons and similar entities does not exclude the individual liability of the agents of the offence.

Article 236
Forms of violation

1. Attempt and neglect are always punishable.
2. In case of negligence, the maximum and minimum amount is halved.

Article 237
Levels of fines

1. The amount of the fine shall be determined according to the gravity of the offence, the guilt, the economic situation of the agent and the economic benefit that it took from the practice of the offence.

2. In determining the proper tort and negligence of legal persons and equivalent entities, the following circumstances shall be taken into account, inter alia:

a) The danger created or damage caused to the conditions of operation of the financial market, the national economy or customers;
b) The occasional or repeated nature of the offence;
c) The previous conduct of the offender;
d) The existence of acts of concealment that hinder the discovery of the offence or the adequacy and effectiveness of sanctions; and
e) The voluntary adoption of behaviour designed to repair the damage or to avoid the dangers caused by the offence.

3. In determining the proper tort and negligence of legal persons and equivalent entities, the following circumstances shall be taken into account, inter alia:

a) The level of responsibility, scope of duties and scope of the offender in the financial institution;
b) The intention to obtain, for themselves or for others, an illegitimate benefit or cause damages; and
c) A special duty of non offense.

4. Without prejudice of the provisions of paragraph h) of number 1 of article 238, if twice the amount of the economic benefit exceeds the maximum fine applicable, the amount of fine is raised to that amount.

5. The minimum limit of the fine shall be increased to twice the amount in the case of repeat offenses considering as such the practice of another offense within one year from the date it become final, or *res judicata* the conviction for another offense.

Article 238
Additional sanctions

1. Together with the fines, the following penalties may be imposed by the Bank of Cape Verde, according to the nature and seriousness of the offence or its frequency, and taking into account the type of activity of the offender and the conditions for exercising the same, apart from those provided for in other legislation:

a) Warning registered with the Bank of Cape Verde;
b) Temporary suspension of the exercise as a member of a governing board or as a top officer of financial institutions;
c) Temporary suspension of the exercise of voting rights at a financial institution;
d) Temporary suspension of the exercise of all or only certain financial activities;
e) Inhibition of the exercise of all or only certain financial activities;
f) Inhibition of the exercise of voting rights at a financial institution;
g) Revocation of the license to operate in the financial system and compulsory closure;
h) Seizure and confiscation of instrumentalities and the object of the offense, in compliance with the provisions of article 251 of this law and the general scheme of unlawful administrative offense;

i) Publishing by the Bank of Cape Verde, at the expense of the offender and suitable for the accomplishment of the purposes of general deterrence and protection of the local financial system, the final sentence or final decision or the sanction imposed by the practice of the offense.

2. The sanctions referred in paragraphs b) to d) above may not exceed five years from the final sentence.

3. The sanctions provided for in number 1 are cumulative.

Article 239
Compliance with the duty violated

1. Whenever the offense arises from the omission of a duty, the payment of the fine or enforcement of the sanction shall not exempt the offender from compliance with the duty, if this is still possible.

2. The offender may be subjected by the Bank of Cape Verde to the injunction to comply with the duty in question.

3. If the order is not complied with, within the prescribed period, the agent shall incur in the penalty for the most serious offences.

Article 240
Prescription

1. The procedure for administrative offences shall expire five years from the date on which it was committed or the abuse ceased.

2. The penalties prescribe five years after the decision becomes final or *res judicata* by court of law.

Article 241
Process

1. The Bank of Cape Verde shall be responsible for investigating the offences mentioned in this chapter and the instruction of the respective processes, as well as the decision to impose the corresponding sanctions.

2. When necessary for the investigation or inquiry into the matter, any documents or valuables and sealed items not seized may be seized.

3. The objects and values seized shall be pledged as collateral for payment of the fine and the costs that may be specified in the decision.

4. The Bank of Cape Verde may order the preventive suspension of duties of members of management boards or employees of the entity concerned, whenever it is deemed necessary to examine the file or to safeguard the interests of both the mentioned institution, as well of its customers and creditors.

5. Home searches and seizures shall be subject to court order, at the request of the Bank of Cape Verde.

6. In the course of the investigation or instruction, the Bank of Cape Verde may request the police authorities and any other public authorities for the collaboration it deems fit.

Article 242
Suspension of proceedings

1. In the case of an offence consisting of rectifiable fault, which did not result in significant damage for the conditions of the financial market to the national economy or to the customers of the financial institution, the Bank of Cape Verde may simply warn the offender, suspending the process, for the period given to remedy the irregularity of it.

2. If the fault is remedied, the procedure shall be discontinued and the same fact may not be judged as an offence a second time.

Article 243
Notifications and compulsory appearance

1. Notifications shall be made by registered letter with acknowledgment of receipt or in person, and if necessary, by the police authorities.

2. Witnesses and experts who do not appear or justify their absence within five working days shall be fined an amount of up to 100,000$00 (one hundred thousand escudos) by the Bank of Cape Verde..

3. Payment of the fine referred in the preceding number shall be made pursuant to article 250 and within ten days of the notification; the certificate of non-payment extracted from the process shall be valid as an enforceable document, in a competent court of tax.

4. The absence of the accused shall not, at any stage of the process, prevent the process from following its terms and the final decision from being proffered.

Article 244
Prosecution and defence

1. Once the investigation has been concluded and should the case not be dismissed for lack of evidence, an indictment shall be made indicating the offender, the facts that are

imputable to the offender and the circumstances of time and place, as well as the provisions that prohibit and punish the offender.

2. The indictment shall be notified to the accused or to the legal counsellor designated by the accused, granting him a reasonable amount of time, between ten and thirty days, to present a defence in writing and to provide evidence, with no more than five witnesses per offence.

3. Notification of the accused shall be made pursuant to number 1 of the preceding article, or, should the defendant not be found or his address be unknown, by edicts of twenty days published in the major circulation newspapers in the country.

4. The lawsuit proceedings under this section shall not be subject to any expiry period.

5. At the end of lawsuit proceedings, a report shall be drawn up and submitted to the board of directors of the Bank of Cape Verde in order for a decision to be pronounced within forty-five days of the date of submission of the report.

Article 245
Voluntary payment

Voluntary payment of the fine shall be permitted until the deadline for the defendant to present his defence, in which case the fine shall be paid in the amount equal to one third of the maximum fine provided for, in the legal type, subject to the costs that are due.

Article 246
Decision

1. A penalty notice shall contain:

a) The identity of the defendant and any co-participants;
b) A description of the alleged facts and the evidence obtained, as well as the standards considered for punishment and the reasons for the decision;
c) The sanction or sanctions, with indication of the factors that contributed to its concrete determination; and
d) A statement of the terms on which the conviction can be judicially impugned in court and when it becomes practical.

2. The decision shall be notified to the accused under number 1 of article 243, informing the accused that the fine must be paid within ten working days from the notification.

3. The implementation of sanctions may be partially or totally suspended for six months to two years, conditioning the suspension of the fulfilment of certain obligations.

4. The suspension referred in the preceding number shall not cover the expenses with legal procedures.

5. Once the time of suspension has elapsed without the defendant having committed any criminal offense or financial offense under this statute, as well as under complementary legislation, and without having violated the obligations imposed on the defendant, the condemnation shall be without effect, proceeding if otherwise with the execution of the penalty imposed.

6. A duly attested decision by the Bank of Cape Verde that has not been contested in a court of law shall be enforceable in relation to sanctions and obligations of a pecuniary nature set on it, with the competent court being the district court of tax foreclosures with its headquartered in Cidade da Praia.

Article 247
Summary proceedings

1. When the nature of the offence, the intensity of guilt and the other circumstances so justify, including the absence of previous convictions, the Bank of Cape Verde may, before the indictment and based on facts, notify the defendant of the possibility of applying a reduced sanction under the terms and conditions contained in the following numbers.

2. The penalty is a warning, without payment of any amount, or a fine which shall not exceed three times the minimum amount of the frame abstractly envisioned for the offence, in any case the additional penalty of disclosure of the condemnatory decision may be applied.

3. The notification provided for in number 1 shall be made by written notice which shall indicate:

   a) A description of the alleged facts;
   b) The specification of standards violated and the unlawful administrative offences practised;
   c) The sanction or sanctions to be applied, with an indication of the factors that contributed to its determination;
   d) An indication, where appropriate, of the behaviour that the accused shall adopt in compliance with the duty violated and the time available for this purpose;
   e) Information on the consequences of the acceptance or refusal of the sanction.

4. Upon receipt of the notification provided for in number 1, the defendant shall within fifteen days submit to the Bank of Cape Verde written acceptance of the sentence in the reported terms or a request for payment of the fine.

5. If the defendant accepts the punishment or pays the fine imposed, and adopts the behaviour communicated to it, the decision of the Bank of Cape Verde shall become final as a conviction and shall prevent the possibility of further consideration of the facts alleged as an offence.

6. If the defendant refuses to accept the sanction in the terms notified or does not pronounce itself within the established time period, or if a fine has been imposed and it has not been paid in due time, or if, having requested any further diligence, or failing to adopt the behaviour due, the notice made under number 3 shall become without effect and the offence process shall continue in the common form, the Bank of Cape Verde being responsible for performing the other preparatory inquiries and prosecuting, without it being limited by the content of said notification.

Article 248
Judicial review

1. The appeal for judicial review of the conviction shall be formulated in a request addressed to the judge of the competent court and lodged at the Bank of Cape Verde, within fifteen days of notification of the contested decision.

2. The Bank of Cape Verde shall refer the file, within fifteen days to the competent court.

3. The Bank of Cape Verde may add allegations or information it considers relevant for the decision under consideration.

4. The judge can decide by simple notice when hearings are not considered necessary, and the Public Prosecutor and the Bank of Cape Verde shall not oppose this form of decision.

5. The Bank of Cape Verde may participate, through a representative, in the hearing for which it is notified.

6. The Bank of Cape Verde can appeal against the decisions taken in the review process, as well as respond to appeals.

Article 249
Publication of decisions subject to appeal

The final court decision confirming, reviewing or revoking the sentence of the Bank of Cape Verde shall be immediately communicated to the Bank of Cape Verde and shall be disclosed by it.

Article 250
Payment of fines and penalties

The fines and penalties shall be paid through the payment tab or at the premises of the Bank of Cape Verde or by electronic means.

Article 251
Destination of fines and advantages

1. The fines collected and items seized under this statute shall revert 80% to the guarantee system provided for by this law and 20% to the Bank of Cape Verde.

2. The rights of third parties are reserved under the terms determined by law.

Article 252
Applicable law

1. In all matters not contrary to the provisions of this chapter, the general regime of offences and their process shall apply.

2. The provisions of this Chapter shall apply to any financial offenses provided in the supplementary legislation of this act.

HEADING X
FINAL AND TRANSITIONAL PROVISIONS

Article 253
Transitional regime

1. International financial institutions constituted and operating under the regime established by Law nº 43/III/88 of December 27 and Decree-Law nº 12/2005 of February 7th shall have a period of one hundred and eighty days to:

   a) Carry out the necessary changes to its statutes and organization in order to comply with the general requirements for financial institutions under this law, applying in respect of the statutory amendments the provisions of Article 25 of this law;
   b) Opt for maintaining a general authorization or the restricted authorization regulated in Articles 38 to 45 of the Law on the Financial System, submitting to the Bank of Cape Verde, in the case of the restricted authorization option, the items referred in number 4 of article 6;
   c) Request a change to the special registration with the Bank of Cape Verde, in line with the changes and option referred to above.

2. Other financial institutions shall have a period of ninety days to:

a) Make the necessary changes to their constitution and organization, in order to comply with the general requirements for financial institutions under this law, applying in relation to the statutory amendments the provisions of article 25 of this law;
b) Request changes to their special registration with the Bank of Cape Verde, in line with the changes and option referred to above.

Article 254
Entry into force

This ordinance shall come into force thirty days after its publication and shall take effect upon the entry into force of the Basic Law of the Financial System.

Approved on 2014 February 26.

The Chairman of the National Assembly,

/ BASÍLIO MOSSO RAMOS /

Promulgated on 2014 April 11.

Let it be published.

The President of the Republic,

/JORGE CARLOS DE ALMEIDA FONSECA/

Signed on 2014 April 11.

The Chairman of the National Assembly,

/ BASÍLIO MOSSO RAMOS/