Securities Code

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Title I
General Provisions

Chapter I
Scope of Application

Article 1
Securities

1. In addition to others qualified as such by the Law, Securities are:

a) Shares;

b) Bonds;

c) Equity instruments;

d) Units in collective investment schemes;

e) Covered warrants;

f) Rights detached from the securities described in a) to d) provided that the same applies to all the issue or series or is described in the issue conditions.

g) Other documents representing similar juridical situations, provided they may be traded on the market

(Rectified by Rectification Declaration No. 23-F/99)
(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 2
Scope of application

1. The present Code regulates securities, the public offers relating to them, the markets where the securities are traded, the settlement and
the intermediation of securities operations, as well as the respective legal framework of supervision and sanction.

2. The Code is not applicable to securities of a monetary nature insofar as this is incompatible with their characteristics or legal framework.

3. Bonds issued for a period of one year or less are deemed to have a monetary nature.

4. The provisions in Titles I and IV to VIII are also applicable to derivative financial instruments that are not securities, except if the respective legal framework is not compatible with their nature.

5. For the purposes of the previous sub-article, references made in this Code to securities should be understood to include other financial instruments.

6. Whenever it pertains to units in collective investment undertakings, any references made in this Code to the issuer should be deemed to be made to the managing entity of the collective investment undertaking.

**Article 3**

**Rules of immediate application**

1. Independently of other law that is applicable, the imperative rules of the present Code are applicable if, and provided that, the situations, activities and the acts to which they refer have a relevant connection to the Portuguese Territory.

2. The following acts and activities are deemed to have relevant connection to the Portuguese Territory:

   a) Orders addressed to members of the markets registered with the CMVM and the operations carried out therein;

   b) The activities carried out and acts performed in Portugal;

   c) The disclosure of information accessible in Portugal that refers to situations, activities or acts regulated by Portuguese law.
Chapter II
Form

Article 4
Written form

The requirement or the reference to written form, written documents or put in writing, made in the present Code in relation to any legal act executed within the scope of business autonomy or administrative proceedings, is deemed to be fulfilled or verified even when the written paper or signature is substituted by another form or by another means of identification that guarantees equivalent levels of intelligibility, durability and authenticity.

Article 5
Publications

1. In the absence of legal provisions to the contrary, mandatory publications are made by means of mass circulating media existing in Portugal and available to the recipients of the information.

2. The CMVM establishes by regulation the means of communication necessary for each type of publication.

Article 6
Language

1. Information disclosed in Portugal that is capable of influencing the decision of the investors, namely in relation to public offers, securities markets, financial intermediation activities and issuers, should be written in Portuguese or accompanied by a duly sworn Portuguese translation.

2. The CMVM may dispense with, partially or totally, the translation when it considers that the interests of investors are protected.

3. The CMVM and the managing entities of markets, settlement systems and centralised systems of securities request the translation into Portuguese of documents written in a foreign language which they receive in the exercise of their activities.
Chapter III
Information

Article 7
Quality of information

1. Information relating to securities, public offers, securities markets, financial intermediation activities and issuers that may influence the decisions of investors or that is provided to supervising entities and managing entities of markets, settlement systems and centralised systems of securities, should be complete, truthful, up-to-date, clear, objective and lawful.

2. The provision in the previous sub-article applies irrespective of the means of disclosure and even if the information is inserted in an advice, a recommendation, an advertisement or a rating notice.

3. The requirement criteria for completion of the information are verified according to the means of publicity used. In advertisements, such criteria are substituted by a reference to a document made available to the readers.

4. The general legal framework of advertising is applicable to advertising related to securities and activities regulated by this Code.

Article 8
Audited information

1. Annual financial information contained in the accounts or prospectuses must be the subject of a report prepared by an auditor registered with the CMVM, where such accounts or prospectuses:

   a) Should be submitted to the CMVM;

   b) Should be published in relation to a request for admission to trade on a regulated market; or

   c) Complies with collective investment undertakings.

2. If the documents referred to in the preceding number include business plans or forecasts on the economic and financial situation of the respective entity, the report of the auditor should clearly refer to the respective assumptions, criteria and consistency.
3. If any quarterly or semi-annual financial information was submitted to an audit or limited review, the audit or review report must be included, failing which this fact must be stated.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 9
Registration of auditors

1. Only official accounting companies and other auditors qualified to perform their activity in Portugal that are equipped with the human, physical and financial resources necessary to guarantee their reputation, independence and technical competence, may be registered as auditors.

2. Provided that they present equivalent guarantees of trust, in accordance with the accepted international standards, the CMVM may accept a report or written opinion prepared by a non-registered auditor that is subject to appropriate regulation by the State of origin.

Article 10
Auditors' liability

1. The following are jointly and severally liable for the damage caused to issuers or third parties due to errors in the report or written opinion prepared:

   a) Qualified chartered accountants and other individuals who have signed the report or written opinion;  

   b) Firms of chartered accountants and other auditing companies provided the audited documents have been signed by one of the partners.

2. Auditors should maintain adequate professional indemnity insurance to guarantee the fulfilment of their obligations.

Article 11
Information standardization

1. After consulting with the Accounting Standardization Commission and the Chartered Accountants Association, the CMVM may, by means of regulations, define rules, compatible with the international standards, as to the contents, organisation and presentation of
economic, financial and statistical information used in financial reports, as well as the respective auditing rules.

2. The CMVM should establish with the Bank of Portugal and the Portuguese Insurance Institute rules designed to secure the compatibility of the information to be rendered, in terms of the previous sub-article, by financial intermediaries also subject to the supervision of one of these entities.

**Article 12**

**Risk rating**

1. Risk rating companies should be registered with the CMVM.

2. Only risk rating companies with the human, physical and financial resources necessary to secure their reputation, independence and technical competence may be registered.

3. Risk rating services should be rendered impartially and obey the prevailing classifications according to international custom.

**Article 12-A**

**Investment recommendations**

1. Investment recommendations shall mean research or any other information produced by an independent analyst, an investment firm, a credit institution, any other person whose main business is to produce recommendations or a natural person working for them that, directly or indirectly, expresses a particular recommendation or suggestion to invest or divest in respect of an issuer of securities, securities or any other financial instruments intended for distribution channels or the public.

2. In respect of other natural or legal persons, investment recommendation shall mean any information produced by them, in the context of their profession or their business, which specifically recommends a decision to invest in or divest from securities or other financial instruments intended for distribution channels or the public.

*(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)*
Article 12-B  
Content of investment recommendations

1. In investment recommendations, the persons referred to in the preceding Article shall:

   a) Clearly and prominently disclose their identity, in particular the name and job title of the natural person who prepared the recommendation and the name of the legal person responsible that makes the recommendation;

   b) Clearly distinguish facts from interpretations, estimates, opinions and other types of non-factual information;

   c) Ensure that all sources are reliable or, where there is any doubt as to whether a source is reliable, clearly so indicate;

   d) Clearly label all projections, forecasts and price targets as such, with express mention of the material assumptions made in producing them;

   e) Have available any particulars required to demonstrate that the recommendation is consistent with its underlying assumptions, upon the request of the competent authorities.

2. Where the author of the recommendation is one of the persons referred to in no. 1 of the preceding Article, he shall further include in his recommendation:

   a) The identity of the authority which supervises the investment firm or credit institution;

   b) All sources of information, that the recommendation has been disclosed to the issuer and whether it has been amended by the issuer before its dissemination;

   c) Any basis of valuation or methodology used to evaluate the issuer and the financial instrument, or to set the corresponding price target;

   d) The meaning of any recommendation made to “buy”, “hold” or “sell” or equivalent expressions, including the time horizon of the investment to which the recommendation relates, as well as any appropriate risk warning, including a sensitivity analysis of the relevant assumptions;
e) The planned frequency of dissemination of the recommendation, as well as any updates thereto and any changes in the coverage policy previously announced;

f) The date on which the recommendation was first released for distribution is indicated, as well as the relevant date and time for any financial instrument price mentioned, clearly and prominently;

g) Where a recommendation differs from a recommendation concerning the same issuer or financial instrument issued during the 12-month period immediately preceding its release, clearly and prominently indicate this change and the date of the earlier recommendation.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 12-C**

**Investment recommendations and disclosure of conflict of interest**

1. Together with the recommendation, the persons referred to in Article 12-A shall disclose all relationships and circumstances that may reasonably be expected to impair the objectivity of the recommendation, in particular where relevant persons have a direct or indirect financial interest in one or more of the financial instruments which are the subject of the recommendation, or a conflict of interest with respect to the issuer of the securities to which the recommendation relates.

2. When the author of the recommendation is a legal person, the provisions of the preceding number shall also apply to any legal or natural person working for it, under an employment contract or otherwise, who was involved in preparing the recommendation, including at least the following:

   a) Disclosure of any interests or conflicts of interest of the author of the recommendation or of related legal persons that are accessible or reasonably expected to be accessible to the persons involved in the preparation of the recommendation;

   b) Disclosure of any conflicts of interest of the author of the recommendation or of related legal persons that, although not involved in the preparation of the recommendation, had or could
reasonably be expected to have access to the recommendation prior to its dissemination to customers or the public.

3. When the author of the recommendation is one of the persons referred to in no. 1 of Article 12-A, he shall further include in his recommendation:

a) Any qualifying holdings of the author of the recommendation or any related legal person in the issuer or of the issuer in the author of the recommendation or any related legal person;

b) Other significant financial interests held by the author of the recommendation or any related legal person which, due to their relation to the issuer, are relevant to assess the objectivity of his recommendation;

c) Any market-making or price stabilisation transactions in the financial instruments concerned by the recommendation in which the author of the recommendation or any related legal person has participated;

d) Any syndicated agreement to assist in or place the securities of the issuer in which the author of the recommendation has participated as lead-manager in the 12-month period preceding production of the recommendation;

e) Any agreement between the issuer and the author of the recommendation or any related legal person relating to the provision of investment banking services, provided that this would not entail the disclosure of any confidential commercial information and that the agreement has been in effect over the previous 12 months or has given rise during the same period to the payment of remuneration or to the promise of remuneration;

f) Any agreement between the issuer and the author of the recommendation relating to the production of the recommendation;

g) Any tie between the remuneration of the persons involved in the preparation of production of the recommendation and investment banking transactions performed by the investment firm or credit institution which is the author of the recommendation or by any related legal person in favour of the issuer of the securities analysed.

4. Any natural persons involved in the preparation or production of a
recommendation who provide services to the investment firm or credit institution which is the author of the recommendation and who acquire, for free or for a consideration, shares in the issuer before a public offer for distribution shall inform the entity which authored or disseminated the recommendation of the price and date of the relevant acquisition, so that these particulars are also made public, without prejudice to the legal liability system applying to these circumstances.

5. At the end of each calendar quarter, investment firms and credit institutions shall display on their website:

   a) The percentage of all recommendations to 'buy', 'hold', 'sell' or equivalent terms in their recommendations as a whole;

   b) The percentage of recommendations relating to issuers to which the investment firm or credit institution has supplied material investment banking services over the 12-month period preceding production of the recommendation.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 12-D

Dissemination of investment recommendations produced by third parties

1. Dissemination of an investment recommendation produced by a third party shall be accompanied by a clear and prominent indication of the identity of the person or entity responsible for such dissemination.

2. Whenever a recommendation produced by a third party is substantially altered, such alteration must be clearly indicated and explained in the recommendation itself, and the addressees of the information shall have access to the identity of the producer of the recommendation, its original content and the disclosure of the producer's conflicts of interest, provided that these elements are publicly available.

3. Whenever a substantial alteration consists of a change in the sense of the recommendation, the duties of disclosure laid down in Articles 12-B and 12-C shall also apply to the disseminator of the altered information, to the extent of the alteration made.

4. In the case of dissemination of a summary of an investment
recommendation produced by a third party, the persons disseminating such summary shall ensure that the summary is clear, updated and not misleading, mentions the source document and where the disclosures related to the source document can be accessed by the public, provided that they are publicly available.

5. Where a recommendation is disseminated by an investment firm, credit institution or natural person working for such persons under an employment contract or otherwise, in addition to performing the duties provided for in the preceding numbers, such recommendation shall also identify the entity that supervises the investment firm or credit institution and, if the author of the recommendation has not yet so disclosed, the disseminator shall comply with the provisions of Article 12-C in respect of the author of the recommendation.

6. The provisions of this Article shall not apply to the reproduction by media journalists of verbal opinions of third parties on securities, other financial instruments or issuers.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 12-E**

**Dissemination by reference**

1. Compliance with the provisions of paragraphs a), b) and c) of no. 2 of Article 12-B and Article 12-C may be replaced by a clear indication of the place where such disclosures can be directly and easily accessed by the public, in the case of non-written recommendations or where the inclusion of such disclosures in a written recommendation would be clearly disproportionate in relation to its length.

2. In the case of non-written recommendations, the provisions of the preceding number shall also apply to compliance with the provisions of paragraphs e), f) and g) of no. 2 of Article 12-B.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)
Chapter IV
Public companies

Section I
General provisions

Article 13
Criteria

1. The following are considered to be companies open to public investment, hereinafter described as "public company":

   a) A company incorporated through an initial public offering for subscription specifically addressed at individuals or entities resident or established in Portugal;

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

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

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

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

2. The company's bylaws may make the launching of a public offer for sale or exchange of nominal shares, that results from the opening of share capital according to paragraph d) of the previous sub-article, subject to a resolution by the General Meeting
Article 14
Information in external acts

The status of public company should be mentioned in acts classified as external acts by Article 171 of the Companies Code.

Article 15
Equal treatment

A public company should ensure equal treatment to the holders of securities that it issues and that belong to the same category.

Section II
Qualifying holdings

Article 16
Communication duties

1. Any entity reaching or exceeding a holding of 10%, 20%, a third, a half, two thirds and 90% of the voting rights in the capital of a public company or reducing its holding to a value below any of the above limits, should, within 3 days of the occurrence of such fact:

   a) Inform the CMVM, the investee company and the managing entities of regulated markets in which the securities issued by the said company are admitted;

   b) Inform the entities described in the previous paragraph of those situations that determine the granting to the participant of voting rights inherent in securities belonging to third parties, according to Article 20(1).

2. The entities reaching or exceeding a holding of 2% and 5% of the voting rights corresponding to the capital of a public company that issues shares or other securities granting the right to their subscription or acquisition, listed on regulated markets situated or operating in Portugal, and those reducing their holding to a value below those limits, are equally subject to the obligations described in the previous sub-article.

3. The communication effected in terms of the previous sub-articles should identify the whole chain of entities to which the qualifying holding should be attributed in terms of Article 20(1), regardless of the law to which they are subject.
4. In the absence of any communication, if it does not follow the provisions of the previous sub-article, or if, in any case, strong doubts exist as to the identity of the individuals to whom the voting rights corresponding to a qualifying holding should be attributed, in terms of Article 20(1), or as to the correct fulfilment of the communication duties, the CMVM should notify this fact to the interested parties, the members of the management and supervisory committees and the chairman of the general assembly of the public company in question.

5. Within 30 days of the communication, the interested parties may present proof intended to clarify the doubts raised in the CMVM’s notification, or take any steps to guarantee the transparency of the ownership of the qualifying holdings.

6. If the details provided or the steps taken by the interested parties do not solve the situation, the CMVM should inform the market of the lack of transparency as to the ownership of the qualifying holdings in question.

7. As soon as the CMVM informs the market, in terms of the previous sub-article, the exercise of the voting rights and other patrimonial rights inherent in the qualifying holding in question, with the exception of the preference rights in the subscription of capital increases, is immediately suspended until the CMVM informs the market and the entities described in sub-article 4 that the ownership of the qualifying holding is considered transparent.

8. The patrimonial rights described in the previous sub-article inherent in the affected holding are deposited in a special account open with a credit institution authorised to take deposits in Portugal, any debit entries being prohibited during the suspension.

9. Prior to taking the measures established in sub-articles (4), (6) and (7), the CMVM should inform the Bank of Portugal and the Portuguese Insurance Institute whenever entities, which are subject to their supervision, are involved.

(Amended by Decree-Law No. 61/2002 of 20th March)

**Article 17**

**Disclosure**

1. The investee company should immediately publish the communication received in terms of the previous article.
2. The investee company and the members of its governing bodies as well as the managing entities of the regulated markets wherein the securities issued by same are listed, should inform the CMVM whenever they are aware or have strong circumstantial evidence of a breach of the information duties described in the previous Article.

3. Communication and publication obligations may be fulfilled by companies with which the entity under obligation to inform has a dominant or group relationship.

(Amended by Decree-Law No. 61/2002 of 20th March)

**Article 18**

**Publication exemption**

The CMVM may dispense with the obligation described in the previous sub-article (1) in relation to holdings of 2% and 5% of the voting rights, if the participant:

- a) Is a member of a regulated market situated or operating in a Member State of the European Union; and

- b) Holds the shares temporarily with a view to their sale; and

- c) Declares that it does not intend to exert influence on the management of the company with the acquired voting rights

**Article 19**

**Shareholders’ agreements**

1. Shareholders’ agreements, aimed at acquiring, maintaining or reinforcing a qualifying holding in a public company or securing or frustrating the success of a take-over, should be communicated to the CMVM by any of the contracting parties within 3 days of their execution.

2. The CMVM should determine the publication of the agreement, wholly or partially, according to its relevance to the control over the company.

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

Article 20
Attribution of voting rights

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

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

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

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

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

   e) That the participant may acquire pursuant to an agreement executed with the respective holders;

   f) Attaching to shares held by way of security or managed by or deposited with the shareholder if the voting rights have been attributed to the shareholder;

   g) Held by holders of voting rights which have granted discretionary powers to the shareholder to exercise them;

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

   i) Attributable to any individual or entity described in one of the previous paragraphs by application, with due adaptations, of the criteria described in any of the other paragraphs.
2. Holders of securities in which inherent voting rights may be attributable to the individual or entity with a qualifying holding should provide such individual or entity with the necessary information for the purposes of Article 16.

3. Voting rights attaching to shares forming part of managed funds or portfolios shall not be considered attributable to the company controlling the investment fund operating entity, the venture capital fund operating entity or a financial institution authorised to provide portfolio management services for the account of third parties and associate companies of pension funds forming part of managed portfolios or funds, provided that the operating entity or financial institution exercises such voting rights independently of the controlling company or associate companies.

4. For the purposes of paragraph h) of no. 1, agreements concerning restrictions on the transfer of shares representing the share capital of the affiliate company are presumed to be instruments of concerted exercise of influence.

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

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 20-A

Attribution of voting rights concerning shares forming part of collective investment undertakings, pension funds or portfolios

1. For the purposes of no. 3 of the preceding article, a company that controls the operating entity or financial institution and the associate companies in pension funds shall benefit from a derogation of aggregated attribution of voting rights, provided that:

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

b) The operating entity or financial institution shows autonomy in respect of decision-making processes concerning the exercise of voting rights.
2. In order to benefit from the derogation of aggregated attribution of voting rights, the company that controls the operating entity or the financial institution must send the CMVM:

a) An updated list of all operating entities and financial institutions controlled by it, and the respective competent authorities to supervise information on qualifying holdings, in the event of entities subject to a foreign personal;

b) A substantiated statement concerning each operating entity or financial institution declaring that it complies with the provisions of no. 1.

3. In order to benefit from the derogation of aggregated attribution of voting rights, associate companies in pension funds must send the CMVM a substantiated statement declaring that they comply with the provisions of no. 1.

4. As soon as it is considered, in the terms of no. 1, that the independence of the operating entity or financial institution that involves a qualifying holding in a publicly traded company is not substantiated, without prejudice to any sanctions applicable thereto, the CMVM shall inform the market and notify this event to the chairman of the shareholders’ meetings, the board and the supervisory board of the affiliate company.

5. The CMVM’s declaration entails immediate attribution of all voting rights attaching to the shares forming part of the investment fund, pension fund, venture capital fund or portfolio, as long as the independence of the operating entity or financial institution is not demonstrated, with the corresponding consequences, and shall further be notified to the shareholders in or clients of the operating entity or financial institution.

6. Before issuing the notice contemplated in no. 4, the CMVM shall notify the same to the Portuguese Insurance Institute (Instituto de Seguros de Portugal) whenever such notice concerns pension funds.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)
Article 21
Control and group relationships

1. For the effects of this Code, control is deemed to exist between a natural or legal individual and a company when, regardless of whether the domicile or headquarters is located in Portugal or abroad, that said individual is capable of exerting, directly or indirectly, a dominant influence over said company.

2. In any case, control exists when a natural or legal individual:

   a) Holds the majority of voting rights;

   b) May exercise the majority of voting rights, according to the terms of the shareholders’ agreement;

   c) May appoint or dismiss the majority of the members of the board of directors or supervisory committee.

3. Companies qualified as such by the Companies Code, regardless of whether their headquarters are in Portugal or abroad, are deemed to be a group for the effects of this Code.

Section III
Corporate resolutions

Article 22
Postal vote

1. In public companies' General Meetings, the right to vote on matters that have been mentioned in the notice convening the meeting may be exercised by mail.

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

3. For the purposes of sub-article (1), the notice convening the General Meeting should include:

   a) Indication that the voting rights may be exercised by mail;
b) Description of how the vote by mail should be processed, including the address and period in which the votes may be received.

4. The company should certify the authenticity of the vote and assure, until the voting takes place, its confidentiality.

**Article 23**

**Proxy vote**

1. The proxy for representation in a General Meeting of a public company, which is made to more than five shareholders or through one of the means of contact with the public described in Articles 109(2) and 109(3)(b) and, should contain, besides the details described in Article 381(1)(c) of the Companies Code, the following:

   a) Voting rights attributed to the petitioner, according to the terms of Article 20(1);

   b) The basis upon which the vote is to be exercised by the petitioner.

2. The standard proxy document should be sent to the CMVM and the managing entity of the market at least 5 working days before being sent to shareholders with voting rights.

3. The petitioner should provide the shareholders with voting rights all relevant information, upon their request.

**Article 24**

**Suspension of a company resolution**

1. The protective measure for the suspension of a company resolution taken by a public company may only be requested by shareholders that, individually or collectively, own shares corresponding at least to 0.5% of the share capital.

2. Any shareholder however, may request, in writing, that the board of directors abstains from carrying out a company resolution it considers invalid, specifying the respective defects.

3. If the resolution is declared null or void, the members of the board of the company that carry out the resolution without taking into consideration the request presented according to the terms of the
previous sub-article, would be liable for the damages caused, and their liability towards the company should not be waived by the provision set out in Article 72(4) of the Companies Code.

**Article 25**
**Share capital increase**

Shares issued by a public company constitute an autonomous category:

a) For a period of 30 days from the capital increase resolution; or

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

**Article 26**
**Annulment of a resolution for share capital increase**

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

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

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

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

Article 27  
Requirements

1. A public company loses this status when:

   a) A shareholder has, as a consequence of the takeover, reached a holding of more than 90% of the voting rights calculated according to the terms of Article 20(1);

   b) The loss of such status is decided in a General Meeting of the company by a majority of shareholders representing not less than 90% of the company's capital and in meetings of special shareholders and other securities that grant the right to subscription or acquisition of shares by a majority of shareholders representing not less than 90% of the said securities;

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

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

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

   a) Acquire, within the period of three months following the CMVM's granting, the securities owned, at that time, by those that have not voted favourably on any resolutions of the General Meeting;

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

4. The consideration for the acquisition described in sub-article 3 is calculated according to the terms of Article 188.
Article 28
Publications

1. The CMVM’s decision is published, at the initiative and expense of the company, in the bulletin of the regulated market where the securities were listed and by one of the means described in Article 5.

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

Article 29
Consequences

1. The loss of public company status is effective from the publication of a favourable decision by the CMVM.

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

Chapter V
Investors

Article 30
Qualified investors

1. Without prejudice to the provisions of the following numbers, the following entities are considered qualified investors:

   a) Credit institutions;

   b) Investment firms;

   c) Insurance companies;

   d) Collective investment institutions and respective managing companies;

   e) Pension funds and respective managing companies;
f) Other financial institutions authorised or regulated, namely securitisation funds, respective managing companies and other financial companies prescribed in the law, securitisation companies, risk capital companies, risk capital funds and respective managing companies;

g) Financial institutions of non-European Union Member States that carry out a business similar to any business referred to in the preceding paragraphs;

h) Entities that trade in financial instruments on commodities;

i) National and regional governments, central banks and public organisations that manage public debt, international and supranational institutions such as the European Central Bank, the European Investment Bank, the International Monetary Fund and the World Bank.

2. For the purposes of the provisions of paragraph c) of no. 3 of Article 109, no. 3 of Article 112, paragraph a) of no. 2 of Article 134 and paragraph d) of no. 1 of Article 237-A, the following entities shall also be considered qualified investors:

a) Other entities whose main corporate purpose is to invest in securities;

b) Companies that meet two of the following criteria:
   i) An average number of employees during the financial year equal to or greater than 250;

   ii) A total balance sheet exceeding 43 million euros;

   iii) A net turnover exceeding 50 million euros.

3. The CMVM may, through regulation, qualify as qualified investors other entities particularly skilled and experienced in securities, such as issuers, defining the economic and financial criteria permitting such qualification.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
**Article 31**  
**Class action**

1. The following natural persons or entities have the right to class action for the protection of the homogeneous natural person or collective interests of non-qualified investors:

   a) Non-qualified investors;

   b) Associations for the defence of investors that fulfil the requirements detailed in the subsequent Article;

   c) Foundations that have as their objective the protection of investors in securities.

2. The conviction obtained should indicate the entity in charge of the receipt and management of the indemnity due to those shareholders not individually identified, designating, according to the circumstances, sinking funds, associations for the defence of investors or one or various shareholders identified in the action.

3. Indemnities that are not paid, due to prescription or the impossibility of identifying the respective shareholders, should revert to:

   a) The sinking fund relating to the activity giving rise to the indemnity;

   b) In the absence of the sinking fund described in the previous sub-article, the investors’ compensation system.

*(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)  
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)*

**Article 32**  
**Associations for the defence of investors**

Without prejudice to the principle of freedom of association, only non-profit associations for the defence of investors, legally incorporated, will benefit from the rights conferred by this Code and supplementary legislation, if they meet the following requirements, verified by registration with the CMVM:

   a) Have as their main statutory objective the protection of interests of investors in securities;
b) Have amongst their associates at least one hundred natural individuals that are not qualified investors;

c) Effectively carry out the activity for more than one year.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 33
Mediation of conflicts

1. The CMVM organises a service intended for the voluntary mediation of conflicts between non-qualified investors, on the one hand, and financial intermediaries, independent investment advisers, securities market operators or issuers, on the other.

2. The mediators are designated by the CMVM’s Executive Board, which may choose individuals from its own organisation or other individuals of recognised repute and competence.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 34
Mediation proceedings

1. Mediation proceedings are defined by the CMVM’s regulations and should obey the principles of impartiality, speed and gratuitous.

2. When the conflict concerns homogeneous individuals or collective investor interests, the association for the defence of investors may initiate the mediation and participate in it, as principal or accessory.

3. The mediation proceeding is confidential and the mediator is bound to secrecy in relation to all information obtained during mediation, and the CMVM may not use in any process material knowledge which was acquired exclusively from the mediation proceedings.

4. The mediator may attempt conciliation or propose to the parties a solution that seems more adequate.

5. The agreement resulting from mediation, in writing, has the nature of an extra-judicial settlement.
Article 35
Sinking funds constitution

1. The managing entities of regulated markets and securities settlement systems may constitute or promote the constitution of sinking funds.

2. The sinking funds aim to indemnify non-qualified investors for damages suffered as a result of an act by any financial intermediary member of the market or authorised to receive and transmit orders for execution on a regulated market and by participants in the settlement system.

3. Participation in the sinking fund is optional, without prejudice to the following number.

4. The managing entities referred to in number 1, may determine that participation in a fund constituted or promoted by them is compulsory for the regulated market members authorized to execute orders on a third party's behalf and the participants in the settlement system.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 36
Management of sinking funds

1. Sinking funds are managed:

   a) By an entity that has such management as its exclusive objective and participates as a partner in one or more of the managing entities described in sub-article 1 of the previous Article; or

   b) By the managing entity of the market or settlement system to which the fund is subordinated.

2. In the case of paragraph b) of the previous sub-article, a sinking fund is considered an independent asset.

3. The board of directors of the sinking fund managing entity is responsible for the following:

   a) To prepare the fund's regulations;
b) [Revoked]

c) To execute decisions concerning indemnity to be paid by the sinking fund.

d) To decide the dissolution of the sinking fund, in the terms of its regulation.

4. The fund’s regulations are approved by the CMVM and define, namely:

   a) The minimum amount of the fund's assets;
   
   b) The complaint and decision process;
   
   c) The maximum limit of indemnity;
   
   d) The fund’s revenue.

5. The fund’s managing entity and the members of the respective governing bodies are subject to registration with the CMVM.

   (Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

**Article 37**

Sinking funds’ revenue

[Revoked]

(Revoked by Article 3 Decree-Law No. 66/2004 of 24th March)

**Article 38**

Payment of indemnity by the sinking fund

[Revoked]

(Revoked by Article 3 Decree-Law No. 66/2004 of 24th March)
Title II  
Securities

Chapter I  
General provisions

Section I  
Applicable law

Article 39  
Capacity and form

The capacity for the issue and the form of securities representation are governed by the individual law of the issuer.

Article 40  
Contents

1. The issuer's individual law regulates the contents of securities, except if, in relation to bonds and other securities; the issue registration determines that another law is applicable.

2. The issuer’s individual law is also applicable to the contents of securities that grant rights to subscription, acquisition or sale of other securities.

Article 41  
Conveyance and guarantees

The conveyance of rights and the constitution of guarantees on securities are governed:

a) In relation to securities integrated into a centralised system, by the law of the State where the management entity of such system is located;

b) In relation to securities registered or deposited and not integrated in a centralised system, by the law of the State in which the entity where the securities are registered or deposited is located;

c) In relation to securities not included in the previous sub-paragraphs, by the individual law of the issuer.
Article 42
Material reference

The designation of a foreign law for the application of the norms of this Section does not include the norms of international private law of the designated law.

Section II
Issue

Article 43
Issue registration

1. The issue of securities that have not been detached from other securities is subject to registration with the issuer.

2. The provisions regarding the registration of securities issues apply to those securities issued by entities whose applicable law is the Portuguese law.

Article 44
Issue registration details

1. The registration of issues should mention:

   a) The issuer's identification, particularly its name, headquarters, corporate number, the register of companies where it is registered along with the respective registration number;

   b) The complete characteristics of the securities, namely the type, the rights that, in relation to that type, are especially included or excluded, the form of representation and the nominal or percentage value;

   c) The quantity of securities that make up the issue, the series they refer to and, in the case of continuous issue, the up-dated amount of securities issued;

   d) The amount and the date of release payments foreseen and carried out;

   e) The changes that occur in any of the details in the abovementioned sub-articles;
f) The date of first registration of ownership or the delivery of the certificates and the identification of the first holder, as well as, if it is the case, the financial intermediary with whom the holder entered into a contract for the registration of the securities;

g) The sequence number of certificated securities.

2. The registration of amendments to which sub-article (1) (e) above refers should be carried out within a period of 30 days.

3. The registration of the issue is reproduced, as to the details described in paragraphs a), b) and c) of the previous sub-article, and its amendments are:

a) In an account opened by the issuer with the management entity of the centralised system, when the securities are integrated in this system;

b) In an account opened by the issuer with the financial intermediary that renders securities registration services in accordance with Article 63.

Article 45
Category

The securities that are issued by the same entity and have the same contents constitute one category, although they may belong to different issues or series.

Section III
Representation

Article 46
Forms of representation

1. Securities are book entries or certificates depending on whether they are represented by registrations in an account or by paper documents; in this Code, the latter are also called certificated securities.

2. The securities forming part of the same issue, even when carried out in series, obey the same form of representation, except for the purposes of trading abroad.
3. Securities detached from book entry and certificated securities integrated into a centralised system are registered in a separate account.

4. Securities detached from other certificated securities are represented by coupons physically separated from the certificate from which they arose.

**Article 47**

**Previous formalities**

The registration of securities in individualised accounts or the delivery of the respective certificates require the prior fulfilment of formalities applying to the creation of each type of security, including those relating to the register of companies.

**Article 48**

**Conversion decision**

1. Except for legal or company bylaws prohibition, the issuer may decide on the conversion of securities as to their form of representation, establishing a reasonable period, which should not exceed one year.

2. The decision to convert is subject to publication.

3. Conversion costs are to be paid by the issuer.

**Article 49**

**Conversion of book entry securities into certificated securities**

1. Book entry securities are considered converted into certificated securities when the certificates become available for delivery.

2. The registration of the converted securities should be rendered invalid or cancelled with reference to the conversion date.

**Article 50**

**Conversion of certificated securities into book entry securities**

1. Certificated securities are converted into book entry securities by an account entry, after the period determined by the issuer for delivery of the certificates to be converted.
2. The certificated securities to be converted should be delivered to the issuer or deposited with the entity that will render the registration service after the conversion.

3. Certificates relating to securities not delivered within the period determined by the issuer only entitle the holders to request registration in their names.

4. The issuer should ensure the invalidation of converted securities by destruction or other form that demonstrates the conversion.

5. The conversion of certificated securities in centralised deposits in book entry securities occurs by the simple communication of the issuer to the centralised system management entity that invalidates the certificates.

**Article 51**

**Reconstitution and judicial reform**

1. Book entry and certificated securities that are deposited may, in case of destruction or loss, be reconstituted from available documents and back up registrations.

2. Reconstitution is carried out by the entity in charge of registration or deposit, with the collaboration of the issuer.

3. The reconstitution project should be published and communicated to each possible holder and the reconstitution may only be carried out at least 45 days following the publication and communication.

4. After the publication and communication, any interested party may object to the reconstitution, requesting the judicial reform of the securities lost or destroyed.

5. When all certificates in a centralised deposit are destroyed, without the respective registrations having been affected, it is considered that the same are converted into book entry securities, except if the issuer, within 90 days of communication of the managing entity of the centralised deposit system, requires the judicial reform.

6. The process of reformation of documents regulated by Article 1069 et seq. of the Code of Civil Procedure applies to the reform of book entry securities, with the necessary adaptations.
Section IV
Forms

Article 52
Nominal and bearer securities

1. Securities are nominal or bearer, depending on whether the issuer has the ability to be constantly informed of the identity of the respective holders.

2. In the absence of bylaws clause or decision of the issuer, securities are considered to be nominal.

Article 53
Convertibility

Except for legal, bylaws or provisions resulting from special conditions established for each issue, bearer securities may, at the holder's initiative and expense, be converted into nominal and vice-versa.

Article 54
Modes of conversion

Conversion occurs:

a) By entry in the individual registration account of the book entry securities or certificated securities integrated in a centralised system;

b) By substitution of certificates or amendments to their text, made by the issuer.

Section V
Legal capacity

Article 55
Legal capacity to sue

1. Anyone who, in accordance with a registration entry or the certificate, is the holder of rights relating to securities will be considered legally entitled to exercise the rights inherent in such securities.
2. The legal right to exercise the detached rights, by entry in an independent account or separation of coupons, belongs to whoever holds the security in accordance with the registration or the certificate.

3. Rights inherent in securities, in addition to those that result from the legal framework of each type, are:

   a) Dividends, interest and other income;

   b) Voting rights;

   c) The rights to subscription or acquisition of securities of same or a different type.

**Article 56**

**Legal capacity to be sued**

The issuer that, in good faith, fulfils any obligation in favour of the legal holder by registration or certificate or confers to the same any right would be released and exempt from liability.

**Article 57**

**Co-holders**

The co-holders of securities exercise the rights inherent in them by means of a common representative, pursuant to the terms applying to shares set out in Article 303 of the Companies Code.

**Article 58**

**Acquisition from an unlawful entity**

1. The rights of the purchaser of security acting in good faith would not be affected by the unlawfulness of the seller provided the acquisition has been carried out according to the applicable rules of conveyance.

2. The provision of the previous sub-article is applicable to the holder of any rights of guarantee on securities.

**Section VI**

**Regulation**
Article 59  
 Regulation of registration with the issuer and financial intermediary

1. The Minister of Finance regulates by administrative ruling:

a) The registration of the issue of securities with the issuer, particularly its contents and backup;

b) The registration of book entry securities with the issuer according to the terms of Article 64, particularly this entity's duties, the means of conversion of securities and their reconstitution.

2. The CMVM is responsible for regulating the registration of book entry securities that follow the system of Article 63.

Article 60  
 Regulation of the centralised system of securities

The CMVM prepares the necessary regulations for the conceptualisation and development of provisions relating to book entry securities and certificates integrated in the centralised system, after consulting with the management entities, namely in relation to the following aspects:

a) Accounting systems and rules they should obey;

b) The exercise of rights inherent in the securities;

c) Information to be rendered by entities integrated in the system;

d) Integration of securities in the system and their exclusion;

e) Conversion of the form of representation;

f) Link with settlement systems;

g) Security measures to be adopted relating to the registration of securities registered electronically;

h) Rendering of securities registration or deposit services by entities established abroad;

i) Procedures to be adopted in operational relations between centralised systems operating in Portugal or abroad;
j) The terms in which the presumption described in Article 74(3) may be refuted.

Chapter II
Book entry securities

Section I
General provisions

SubSection I
Types of registration

Article 61
Registering entities

The individual registration of book entry securities consists of:

a) An account opened with a financial intermediary, which is integrated in a centralised system; or

b) An account opened with a single financial intermediary proposed by the issuer; or

c) An account opened with the issuer or financial intermediary that represents it.

(Rectified by Rectification Declaration No. 23-F/99)

Article 62
Integration in a centralised system

Book entry securities admitted to trading on regulated markets are compulsorily integrated in the centralised system.

Article 63
Registration with a single financial intermediary

1. When not integrated in a centralised system, the following securities are compulsorily registered with a single financial intermediary:

a) Bearer book entry securities;

b) Securities distributed by public offer and other securities belonging to the same category;
c) Securities issued jointly by more than one entity;

d) Units in a collective investment undertaking.

2. The registering financial intermediary is proposed by the issuer or managing entity of a collective investment undertaking, which will bear the costs of any eventual change of registering entity.

3. If the issuer is a financial intermediary, the registration described in this Article is made with another financial intermediary.

4. The financial intermediary adopts all the necessary measures to prevent and, with the issuer’s collaboration, correct any discrepancy between the quantity, total and category, of securities issued and the quantity of securities in circulation.

Article 64
Registration with the issuer

1. The nominal book entry securities not integrated in a centralised system, nor registered with a single financial intermediary are registered with the issuer.

2. The registration with the issuer may be replaced by a registration of the same value by a financial intermediary acting as representative of the issuer.

SubSection II
Process of registration

Article 65
Registration format

1. The registrations integrated in a centralised system are made in electronic format, which may consist of codified references.

2. The entities that carry out registrations in electronic format should use appropriate security measures for this type of medium, in particular, back up copies that should be kept at a different place from that of the registrations.
**Article 66**

**Compulsory and ex parte registrations**

1. The registrations related to acts in which the registering entity has, in some way, intervened, communicated to them by the managing entity of the centralised system and the acts of judicial seizure that are communicated by the competent entity are considered compulsory registrations.

2. The following individuals have the right to request registration:

   a) The holder of the account where the registration should be made or where the securities should be transferred to;

   b) The usufructuary, the pledge creditor, and the holder of other legal status that burden the securities, as to the registration of the respective legal situations.

**Article 67**

**Documentary basis of the registrations**

1. The initial and subsequent registrations in registries are made based on the written request from the grantor or in documents sufficient to prove the registration.

2. When the petitioner does not deliver any written document and this is not required to validate or to prove the fact to be registered, the registering entity should provide a written note to justify the registration.

**Article 68**

**Details in accounts of individual registration**

1. Separate accounts, by category of securities, should be opened in relation to each holder and besides the details mentioned in Article 44(1) (a) & (b), same should contain the following information:

   a) The identification of the holder and, in case of co-holders, a common representative;

   b) The debit and credit entries of quantities acquired and sold, with identification of the account where the respective debit and credit entries were made;
c) The total amount of securities existent at any moment;

d) The allocation and payment of dividends, interest and other income;

e) The subscription and acquisition of securities, of the same or different type, to which the registered securities confer rights;

f) The detachment of inherent rights or securities and, in this case, the account where they are registered;

g) The constitution, amendment and end of usufruct, pledge, judicial seizure or any other legal status that burdens the registered securities;

h) Blockage of securities and their cancellation;

i) Legal actions proposed relating to registered securities or to the registration itself and the respective decisions;

j) Other references required by the nature or by the characteristics of the registered securities.

2. The details mentioned in the previous sub-article should include the date of registration and the abbreviated reference of the documents used as its basis.

3. If the securities are issued by entities regulated by a foreign law, the registration is made, in relation to the details equivalent to those mentioned in paragraphs a) and b) of no. 1 of Article 44, based on a declaration by the petitioner, accompanied by the legal opinion set out in no. 1 of Article 231, when required in the terms of this Article.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 69**

**Date and priority of registrations**

1. Compulsory registrations are recorded with the date of the registered fact.

2. Registrations requested by interested parties are recorded with the date of submission of the registration request.

3. If more than one registration refers to the same date, the priority of registration is determined by the time of verification of the fact or
submission, depending on whether the registration is compulsory or dependent on submission.

4. Registrations relating to blocked book entry securities should refer to the date the blockage ceased.

5. A provisional registration converted into a definitive registration retains the date of the provisional registration.

6. In the case of refusal, the registration following a complaint or appeal against the registering entity decided in favour of the petitioner is recorded with the date that corresponds to the act refused.

Article 70
Succession of registrations

Registration of the acquisition of securities, as well as the constitution, amendment or end of usufruct, pledge or other legal situations that burden the registered securities, requires previous registration in favour of the holder.

Article 71
Transfer of book entry securities between accounts

1. Transfer of book entry securities between accounts belonging to the same or different holders is performed through a debit entry in the account of origin and a credit entry in the destination account.

2. Transfers between accounts in the centralised system are made according to the total values to be transferred, reported by the management entity of the centralised securities system.

Article 72
Blockage

1. The following book entry securities are compulsorily subject to blockage:

a) In which certificates have been issued to enable the exercise of rights inherent in the securities, during the period indicated on the certificate when the exercise of those rights depends upon maintenance of ownership of the securities until the date such right is exercised;
b) In which a certificate was issued so as to be valid as a writ of execution. In that case, the blockage should apply until the original certificate is returned or until a certificate of the court’s final decision on the execution proceeding is presented;

c) Which are subject to attachment or other acts of judicial seizure, while the same remains valid;

d) Which are the object of a public offer for sale or, if they have already been issued, are the consideration of a public offer of exchange, the blockage being maintained until the operation is liquidated or the early end of the offer.

2. Blockage may also take place:

a) By the initiative of the holder, in any situation;

b) By the initiative of a financial intermediary, regarding the securities in relation to which an order or a communication for sale on a registered market was given.

3. The blockage consists of an entry in the proper account, which will indicate the grounds for blockage, its duration and the amount of securities involved.

4. In the course of the blockage, the registering entity is not allowed to transfer the blocked securities.

SubSection III
Value and defects in registration

Article 73
Initial entry

1. Book entry securities are made by entries in individual accounts opened with the registering entities.

2. The initial entry is made based on the relevant information of the issue registration reported by the issuer.

3. If the registering entity has opened subscription accounts, registration is made by conversion of such accounts into individual registration accounts.
Article 74
Effects of the registration

1. Registration in individual accounts of book entry securities raises the presumption that rights exist and belong to the account holder, as recorded in the respective registrations.

2. Unless otherwise indicated in the account, the shares of each of the co-owners of the same book entry securities account are assumed to be the same.

3. When the compliance with information duties, advertising or issue of public acquisition offers is in discussion, the assumption of ownership arising from the registration may be refuted, for this purpose, before the supervisory authority or by its own initiative.

Article 75
Priority of rights

The registered rights over the same securities prevail over each other according to the priority of the respective registrations.

Article 76
Termination of the effects of registration

1. The effects of registration end by forfeiture or cancellation.

2. The cancellation may be of own motion or at the request of the interested party.

Article 77
Registration refusal

1. Registration is refused in the following cases:

   a) The fact is not subject to registration;
   b) The registering entity is not competent to perform the registration;
   c) The petitioner is not legitimate;
   d) The fact to be registered is obviously invalid;
   e) The documents presented are evidently inadequate;
f) Registration was made provisionally due to doubts that have not been resolved.

2. When it is not refused, the registration may be drafted as provisional because of a lack of documents.

3. Provisional registrations lapse if the reason for their temporary drafting is not resolved within thirty days.

**Article 78**

**Proof of registration**

1. Registration is proven by a certificate, issued by the registering entity.

2. The certificate proves the existence of registration of ownership of the respective securities and usufruct rights, pledge rights and any other specified legal situations, with reference to the date of issue or the term stated therein.

3. The certificate may be requested by any party which has the right to petition registration.

4. Legally recognised creditors of the holder of the securities may request an affirmative or negative certificate regarding the existence of any situations that burden those securities.

**Article 79**

**Rectification and dispute of the registration acts**

1. The registrations may be rectified by the registering entity, compulsorily or on the initiative of the interested parties.

2. The rectification is retroactive to the date of the amended registration, without prejudice to the rights of third parties acting in good faith.

3. The registration acts or their refusal are subject to appeal before public courts of law up to 90 days following knowledge of the fact by the contesting party, provided that this occurs within 3 years of the date of registration.
SubSection IV  
Conveyance, constitution and exercise of rights

Article 80  
Conveyance

1. Book entry securities are conveyed by entry in the purchaser's account.

2. The purchase of book entry securities on a regulated market grants the buyer, independently of registration and as from the time the operation is carried out, legitimacy for their sale on that market.

Article 81  
Pledge

1. The pledge of securities is carried out by an entry in the securities holder's account, indicating the amount of securities given as pledge, the obligation guaranteed and the beneficiary's identity.

2. The Pledge may be affected by an entry in the pledge creditor's account, when the accruing voting right has been granted to such creditor.

3. The registering entity where the account of the pledged securities is opened may not perform the transfer of such values to an account opened with another registering entity, without prior communication to the pledge creditor.

4. If not otherwise agreed, the rights inherent in the pledged securities are to be exercised by holder of said securities.

5. The provisions of sub-articles 1 to 3 apply, with the necessary adaptations, to the creation of usufruct and any other legal situations that may burden the securities.

Article 82  
Seizure

Seizure and other such acts of judicial seizure of book entry securities take place by notice made by electronic means by the court to the registering entity or depositary that the securities should remain under its order.

(Amended by Article 11 Decree-Law No. 38/2003 of 8th March)
Article 83
Exercise of rights

If the rights inherent in the securities are not exercised by the registering entity, they may be exercised by presentation of the certificates described in Article 78.

Article 84
Writ of execution

The certificates issued by the registering entities, regarding book entry securities, are valid as writ of execution, if their purpose is mentioned, if they have no time limit and if the signature of the individual representing the registering entity and his powers are recognised by a notary.

SubSection V
Duties of the registering entities

Article 85
Rendering of information

1. Registering entities of book entry securities should report, in the most adequate way in each given situation, information that may be requested by:

a) Holders of securities, regarding the details of the accounts opened in their name;

b) Holders of usufruct rights, pledge rights and other legal situations that burden the registered securities, regarding their respective rights;

c) Issuers, regarding aspects of nominal securities accounts.

2. The duty of disclosure also covers the contents of documents on which the registrations have been based.

3. If the securities are integrated in a centralised system, requests for information by issuers may be addressed to the entity managing this system, which transmits them to each of the registering entities.

4. The registering entity should send to each registered securities holder:
a) Every three months, or less if so agreed by the parties, statements of accounts opened in their names, indicating the entries and the total amount at the end of each period;

b) Information necessary for the timely compliance with tax obligations.

Article 86
Access to information

In addition to those individuals referred in law or expressly authorised by the owner, the following should have access to information regarding the facts and legal situations stated in registrations and related documents:

a) The CMVM and the Bank of Portugal, in the exercise of their functions;

b) Through the CMVM, the supervisory authorities of other States, in the terms established in the CMVM’s statutes;

c) The financial intermediaries to whom an order of disposal of registered securities has been given.

Article 87
Civil liability

1. The registering entities of book entry securities are liable for damage caused to holders of rights over those securities or third parties, arising from omission, irregularity, error, shortcoming or delay in the performance of registrations or their destruction, except if proved that the injured parties are responsible.

2. The registering entities have the right to redress against the centralised system's managing entity for the compensation due according to the sub-article above, whenever the facts on which liability is based be imputed to them.

3. Whenever possible, compensation is fixed in securities of the same category as those to which the registration refers.
Section II
Centralised system

Article 88
Structure and functions of the centralised system

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

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

3. The provisions of this Section do not apply to centralised systems directly managed by the Bank of Portugal.

Article 89
Operational rules

1. The operational rules necessary for the functioning of centralised systems are established by the respective managing entity, being subject to registration.

2. The CMVM refuses registration or imposes amendments when it considers the registration inadequate or contrary to legal or regulatory provisions.

Article 90
Integration and exclusion of securities

1. Integration in a centralised system covers all securities of the same category, depends on request by the issuer and is made by registration in an account opened with the centralised system.

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

Article 91
Integral accounts of the centralised system

1. The centralised system is constituted by the following accounts, at the least:
a) Issue accounts, opened by the issuer, according to Article 44(1);

b) Individual registration accounts, opened by financial intermediaries authorised for this purpose;

c) Issue controlling accounts, opened by each of the issuers with the system's managing entity, according to Article 44(3) (a);

d) Accounts for the control of individual registration accounts, opened by financial intermediaries with the system managing entity.

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

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

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

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

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

7. Specific sub-accounts should be opened with the centralised system's management entity, relating to pledged securities or securities which may not be transferred or, for any other reason, may not fulfil the requirements of trading on a regulated market.
Article 92
Control of securities in circulation

1. The centralised system managing entity should adopt the necessary measures to prevent and correct any discrepancies between the amount, total and category of securities issued and those in circulation.

2. If the accounts described in sub-article (1) of the previous Article refer only to one part of the category, the control over the entire category is ensured through proper co-ordination with other centralised systems.

Article 93
Information to be provided to the issuer

The centralised system managing entity should provide the issuer with information on:

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

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

Article 94
Civil liability

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

2. The centralised system management entity has the right to redress against the financial intermediaries for the compensation paid to the issuers, and against these, for the indemnities paid to financial intermediaries whenever the facts on which liability is based are imputable, in either case, to the financial intermediaries or the issuers.
Chapter III
Certificated securities

Section I
Certificates

Article 95
Certificates issue and delivery

It is the issuer's duty to issue and deliver the certificated securities to the initial holder and it should also be responsible for the respective expenses.

Article 96
Certificates

Until the issue of securities, the holder's legal situation may be proved by means of certificates provided by the issuer or the financial intermediary involved in the operation.

Article 97
Certificated securities details

1. The certificates should contain, in addition to that mentioned in Article 44(1) (a) & (b), the following:

   a) Order number;

   b) The number of rights represented in the securities and, if applicable, their total nominal value;

   c) Identification of the holder, in the case of registered certificates.

2. The securities are signed and sealed, by a representative from the issuer's board of directors.

3. The amendment of any aspect of the security may be made by its substitution or, as long as it is signed, in accordance with the previous sub-article, in the respective text.
Article 98
Division and concentration of securities

In relation to securities representing one or more units of the same category of securities, the holder may request the division or concentration of securities, bearing the respective expenses.

Section II
Deposit

Article 99
Forms of deposit

1. Deposit of certificated securities is made with:
   a) An authorised financial intermediary on the initiative of the holder;
   b) A centralised system, in the cases required by law or at the issuer's initiative.

2. Certificated securities are necessarily deposited with:
   a) A centralised system, when they are admitted to trade in a regulated market;
   b) A financial intermediary or centralised system, when the entire issue or series is represented by a single certificated security.

3. The depository entity should keep the registration accounts separated per holder.

4. Securities deposited with a financial intermediary keep their order number.

5. The system of book entry securities registered with a single financial intermediary applies to the securities described in sub-article 2 (b) when they are not integrated in a centralised system.

Article 100
Ownership of deposited securities

1. Ownership of deposited securities is not transferred to the depository, nor may the latter use them for any other means than those set out in the deposit contract.
2. In the case of bankruptcy of the depository, securities may not form part of the bankrupt’s estate, with the right of the holders prevailing to demand their separation and restitution.

Section III
Transfer, constitution and exercise of rights

Article 101
Transfer of bearer securities

1. Bearer securities are transferred by handing over the security to the transforee or the depository indicated by the same.

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

3. In the case of transfer due to death, the registration described in the previous sub-article, is made based on documents that prove the right to succession.

Article 102
Transfer of nominal securities

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

2. Declaration of an inter vivos transfer is made:

   a) By the depository, in non-centralised deposited securities, who should accordingly draw up the respective registration in the transferee's account;

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

   c) By the transferor, in any other situation.

3. Declaration of transfer resulting from death is made:

   a) In case of judicial distribution, as described in the previous sub-article 2(b);
b) In the remaining cases, by the head of the family or notary who executed the deed of distribution of the estate.

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

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

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

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

(Rectified by Rectification Declaration No. 23-F/99)

**Article 103**

**Usufruct and pledge**

The constitution, amendment or extinction of usufruct, pledge or any legal situations that burden the securities, is carried out in accordance with the same legal procedures stipulated for the transfer of the ownership of securities.

**Article 104**

**Exercise of rights**

1. The exercise of rights inherent in bearer securities depends on the possession of the instrument or certificate issued by the depository, according to Article 78(2).

2. The rights inherent in nominal securities not integrated into a centralised system are exercised according to what is stated in the issuer's registration.

3. The certificated securities may have coupons for the purpose of exercising inherent rights.
Section IV
Certificated securities in a centralised system

Article 105
Applicable system

The provisions relating to book entry securities in a centralised system apply to certificated securities integrated in a centralised system.

Article 106
Integration in a centralised system

1. After the deposit of the securities in a centralised system, the securities are registered with an account, indicating their inclusion in a centralised system and the corresponding date.

2. The centralised system managing entity may deliver the deposited securities into the custody of a financial intermediary authorised to receive them, with such entity maintaining its obligations and responsibilities to the depositor.

Article 107
Exclusion from the centralised system

The exclusion of certificated securities from the centralised system may only take place after the system's managing entity is assured that the securities reflect the details registered in the centralised system, making reference to the date and fact of its exclusion.
Title III
Public offers

Chapter I
Common provisions

Section I
General principles

Article 108
Applicable Law

1. Without prejudice to the provisions of nos. 2 and 3 of Article 145, the provisions set out in the present title and the supplementary regulations apply to public offers addressed specifically to natural persons resident or established in Portugal, whatever the offeror’s and issuer's applicable law or the law applicable to the securities that are the object of the offer may be.

2. The takeover bids contemplated in article 145-A:

a) In respect of the proposed consideration, processing of the offer, the content of the prospectus of the offer and disclosure of the offer, the law of the Member State whose supervisory authority has powers to supervise the offer shall apply;

b) In respect of disclosure to the offeree company’s employees, the percentage of voting rights that constitutes control, derogations or waivers of the duty to launch a takeover bid and restrictions to the powers of the board of the offeree company, the personal law of the company issuing the securities concerned by the offer shall apply.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 109
Public offer

1. Offers of securities addressed, wholly or partially, to unidentified recipients are considered as public.

2. The uncertainty of the addressee is not prejudiced by the fact that the offer takes place through multiple standard communications, even if addressed to individually identified addressees.
3. It is also considered public:

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

b) An offer that, wholly or partially, is preceded or accompanied by a prospecting or a solicitation for investment’s intentions from unidentified addressees or promotional material;

c) Offers addressed to at least 100 people who are non-qualified investors resident or established in Portugal.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 110**

Private offers

1. The following are always considered private offers:

a) Offers of securities addressed only to qualified investors;

b) The subscription offers addressed by non-publicly held companies to the majority of their shareholders, except for the case described in sub-article 3(b) of the previous Article.

2. Private offers launched by public companies and issuers of securities listed on a market are subject to a subsequent communication to the CMVM for statistical purposes.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 110-A**

Voluntary qualification

1. For the purposes of the provisions of paragraph c) of no. 3 of Article 109, no. 3 of Article 112 and no. 2 of Article 134, the following entities shall be considered qualified investors, provided they have registered with the CMVM to this end:

a) Small and medium-sized companies which have their registered office in Portugal and which, according to their last annual or consolidated accounts, meet only one of the criteria laid down in paragraph b) of no. 2 of Article 30;
b) Natural persons who are resident in Portugal and who meet at least two of the following criteria:

i) Have carried out transactions of a significant size on securities markets at an average frequency of, at least, 10 per quarter over the previous four quarters;

ii) Have a securities portfolio in excess of 500,000 euros;

iii) Work or have worked for at least one year in the financial sector in a professional position which requires knowledge of securities investment.

2. Registered entities shall notify the CMVM of any changes to the particulars referred to in the preceding number which affect their qualification.

3. Entities registered in the terms of this Article may decide to opt out at any moment.

4. Through regulation, the CMVM shall define the form of organisation and operation of the register, in particular the details required for registration and evidence of the criteria referred to in no. 1, as well as the procedures to be observed for registration and rectification and cancellation thereof.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 111

Scope

1. The following offers are excluded from the scope of application of the present Title:

a) Public offers for distribution of non-equity securities issued by a Member State or by one of a Member State’s regional or local authorities and public offers for distribution of securities unconditionally and irrevocably guaranteed by a Member State or by one of a Member State’s regional or local authorities;

b) The public offers for distribution of securities issued by the European Central Bank or by the central bank of one of the Member States of the European Community;
c) The offers on securities issued by an open-end collective investment undertaking, made by the issuer or on its behalf;

d) The offers in a market registered with the CMVM that are presented exclusively through the market's own means of communication and that are not preceded or accompanied by prospecting or investment's intentions solicitation from unspecified addressees or promotional material.

e) Public offers for distribution of securities with a denomination per unit equal to or greater than 50,000 euros or whose subscription or sale price per addressee is equal to or greater than this amount;

f) Public offers for distribution of non-equity securities issued by public international bodies of which one or more Member States are members;

g) Public offers for distribution of securities issued by associations with legal status or non-profit-making bodies, recognised by a Member State, with a view to their obtaining the means necessary to achieve their non-profit-making objectives;

h) Public offers for distribution of non-equity securities issued in a continuous or repeated manner by credit institutions, provided that these securities:

i) Are not subordinated, convertible or exchangeable;

ii) Do not give a right to subscribe to or acquire other types of securities and are not linked to a derivative instrument;

iii) Materialise receipt of repayable deposits;

iv) Are covered by the Deposit Guarantee Fund contemplated in the General Regulations on Credit Institutions and Financial Companies or another deposit guarantee scheme under Directive 94/19/EC of the European Parliament and the Council of 30 May, on deposit-guarantee schemes;

i) Public offers for distribution of securities where the total consideration of the offer is less than 2,500,000 euros, which limit shall be calculated over a 12-month period;

j) Public offers for distribution of non-equity securities issued in a
continuous or repeated manner by credit institutions where the total consideration of the offer is less than 5,000,000 euros, which limit shall be calculated over a 12-month period, provided that these securities:

i) Are not subordinated, convertible or exchangeable;

ii) Do not give a right to subscribe to or acquire other types of securities and are not linked to a derivative instrument;

l) Public offers for subscription of shares issued in substitution of shares of the same class already issued, if the issue of such shares does not involve any increase in the issued capital.

2. For the purposes of paragraphs h) and j) of the preceding number, issued in a continuous or repeated manner shall mean a set of issues involving at least two separate issues of securities of a similar type and/or category over a 12-month period.

3. In the cases contemplated in paragraphs a), b), i) and j) of no. 1, the issuer shall be entitled to draw up a prospectus in accordance with this Code and any supplementary legislation.

4. The offers referred to in paragraphs e), i) and l) of no. 1 shall be subject to subsequent notice to the CMVM for statistical purposes.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 112
Equality of treatment

1. Public offers should take place under conditions that ensure equal treatment to the addressees, without prejudice to the possibility set out in Article 124(2).

2. If the total amount of securities that are the object of declarations of acceptance by the addressees is greater than the amount of securities offered, the securities are allocated in proportion to the requested amounts, except if other criteria is legally established or authorised by the CMVM.

3. When, in the terms of this Code, no prospectus is required, material information provided by an issuer or an offeror and addressed to qualified investors or special categories of investors, including
information disclosed in the context of meetings relating to offers of securities, shall be disclosed to all qualified investors or special categories of investors to whom the offer is exclusively addressed.

4. Where a prospectus is required to be published, the information referred to in the preceding number shall be included in the prospectus or in a supplement to the prospectus.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 113
Compulsory intermediation

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

a) Assistance and placement in public offers for distribution of securities;

b) Assistance, as from the preliminary announcement and receipt of the declarations of acceptance, in take-overs.

2. The duties described in the previous sub-article may be carried out by the offeror when the same is duly authorised to do so.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section II

Approval of the prospectus, registration and advertising

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 114
Approval of the prospectus and prior registration and advertising

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

2. All public offers are subject to prior registration with the CMVM.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
(Rectified by Rectification Declaration No. 21/2006 of 30th March)
Article 115
Examination of application

1. The application for registration or approval of the prospectus shall be submitted together with the following documents:

a) Copy of the resolution to issue the offer taken by the offeror's competent bodies, and the necessary management decisions;

b) Copy of the issuer's bylaws;

c) Copy of the offeror's bylaws;

d) Up-to-date certificate of company registration of the offeror;

e) Up-to-date certificate of company registration of the issuer;

f) Copy of the management reports and accounts, the opinions of the supervisory bodies and the legal certification of the issuer’s accounts in respect of the periods required in the terms of Regulation no. 809/2004/EC of the Commission of 29 April;

g) Report or statement from an auditor, prepared according to Articles 8 and 9;

h) Identification code of the securities that are the object of the offer;

i) Copy of the contract entered into with the financial intermediary assisting in the operation;

j) Copy of the placing contract and the placing consortium contract, if applicable;

k) Copy of the market placing contract, stabilisation contract and Greenshoe contract, if applicable;

m) Draft prospectus;

n) Pro-forma financial information, when required;

o) Draft offer announcement, when required;

p) Experts’ reports, when required.
2. The filing of the referred documents may be replaced by the indication that updated versions of the same are already in the CMVM’s possession.

3. The CMVM may request the offeror, the issuer or any other person in one of the circumstances set out in no. 1 of Article 20 in respect of the offeror or the issuer to render the supplementary information necessary to assess the offer.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 116**

Special reports and accounts

[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

**Article 117**

Legality of the offer

The offeror shall ensure that the offer complies with the applicable legal and regulatory provisions, notably in respect of the lawfulness of its object, the transferability of the securities and, where applicable, their issue.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 118**

Decision

1. The approval of the prospectus, registration or its refusal shall be notified to the offeror:

a) Within eight days, in a take-over;

b) Within 10 working days, in respect of public offers for distribution, unless they concern issuers which have not made any prior public offer for distribution or admission to trading on regulated markets, where the time limit shall be 20 working days.

2. The above mentioned terms are valid as from the date of receipt of the application or supplementary information requested from the offeror or third parties.
3. The need to provide additional information shall be notified, on reasoned grounds, to the offeror within 10 working days of receipt of the application for registration.

4. Absence of a decision by the time limit referred to in no. 1 shall constitute an implied rejection of the application.

5. The approval of the prospectus is the act that implies the verification of its conformity with the requirements of completeness, accuracy, updating, clarity, objectivity and lawfulness of the information.

6. Registration of a takeover bid shall imply approval of the corresponding prospectus and be based on criteria of legality.

7. Approval of the prospectus and registration do not involve any guarantee as to the contents of the information, the offeror’s, the issuer's or the guarantor’s economic or financial situation, the feasibility of the offer or the quality of the securities.

8. The CMVM’s decisions on approval of prospectuses and registration of takeover bids shall be disclosed through its information disclosure system.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 119
Refusal of approval of a prospectus and registration

1. Registration of the offer is refused only when:

a) Any of the documents used in the preparation of the request are false or does not conform to the legal or regulatory requirements;

b) The offer is illegal or in fraus legis.

2. Approval of the prospectus shall be refused only in the case contemplated in paragraph a) of the preceding number.

3. Before refusal, the CMVM should notify the offeror to rectify, within a reasonable time, the reparable defects.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 120
Registration forfeiture
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 121
Advertising

1. The advertisements related to public offers should:
   a) Follow the principles stipulated in Article 7;
   b) Refer to the existence or future availability of a prospectus and indicate the ways to access the same;
   c) Correspond with the contents of the prospectus.

2. All advertising material related to the public offer is subject to prior approval by the CMVM.

3. Civil liability for the contents of information divulged for advertising purposes, with any due modifications, is subject to the provisions set out in Article 149 et seq.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 122
Prior advertising

When the CMVM, following its preliminary examination of the application, considers the approval of the prospectus or registration of the offer to be viable, it may authorise advertising prior to approval of the prospectus or registration, as long as this does not cause disruption to the addressees or the market.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Section III
Launching and execution

Article 123
Public offer's announcement
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 124
Contents of the offer

1. The contents of the offer may only be modified in the cases set out in Articles 128, 172 and 184.

2. There is only a single price for the offer, except for the possibility of different prices according to different classes of securities or addressees, fixed in objective terms and legitimate interest of the offeror.

3. The offer may only be subject to conditions that correspond to the offeror's legitimate interest and do not affect the normal functioning of the market.

4. The offer may not be subject to conditions where the verification depends on the offeror.

Article 125
Offer period

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

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 126
Acceptance declarations

1. The declaration of acceptance of the offer by the addressees is made by an order addressed to a financial intermediary.

2. Acceptance may be revoked by means of a communication to the financial intermediary, received up to five days before the offer's deadline or within a shorter term if stated in the offer documentation.
Article 127
Assessment and publication of the offer's results

1. At the end of the offer’s period, the offer’s results are immediately assessed and published:

a) By a financial intermediary that collects all the acceptance declarations; or

b) In a special regulated market session.

2. In the case of a public offer for distribution, parallel to the disclosure of the results, the financial intermediary or the regulated market operator shall inform whether admission to trading of the securities concerned has been requested.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section IV
Vicissitudes

Article 128
Change of circumstances

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

Article 129
Modification of the offer

1. The modification of the offer leads to the extension of the respective time period, decided by the CMVM on its own initiative or at the request of the offeror.

2. The declarations of acceptance of the offer prior to amendment are considered effective for the modified offer.

3. The modification shall be disclosed immediately by the same means used to disclose the prospectus or, if a prospectus is not required, by the means of disclosure determined by the CMVM, through regulation.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 130
Revocation of the offer

1. A public offer may only be revoked in accordance with Article 128.

2. The revocation shall be disclosed immediately by the same means used to disclose the prospectus or, if a prospectus is not required, by the means of disclosure determined by the CMVM, through regulation.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 131
Withdrawal and prohibition of the offer

1. The CMVM shall, as the case may be, order the withdrawal of the offer or prohibit its launch if the offer is impaired by any irremediable illegality or breach of a regulation.

2. Decisions on withdrawal or prohibition shall be published by the CMVM, at the expense of the offeror, by the same means used to disclose the prospectus or, if a prospectus is not required, by the means of disclosure determined by the CMVM, through regulation.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 132
Effects of revocation and withdrawal

The revocation and withdrawal of the offer determines the ineffectiveness of the offer and acts of acceptance prior or subsequent to the revocation or withdrawal, and with the right to restitution of whatever has been delivered.

Article 133
Suspension of the offer

1. The CMVM should suspend the offer when any reparable illegality or violation of regulation is discovered.

2. Following the verification of the circumstances described in Article 142, the offeror should suspend the offer until the prospectus has been amended or rectified.

3. The suspension of the offer confers on the addressees the possibility of withdrawing their declaration until the fifth day following the
suspension, with the right to restitution of whatever has been delivered.

4. Each period of suspension of the offer cannot exceed 10 working days.

5. If at the end of the period referred in the previous sub-article the defects that caused the suspension have not been corrected, the CMVM should order the withdrawal of the offer.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section V
Prospectus

SubSection I
Requirements, format and content

Article 134
Prospectus requirements

1. The carrying out of any public offer relating to securities should be preceded by the disclosure of a prospectus.

2. The following public offers are exempted from the requirement described in the previous sub-article:

a) Offers of securities to be allotted in connection with a merger to at least 100 shareholders who are not qualified investors, provided that a document containing information which is regarded by the CMVM as being equivalent to that of the prospectus is available at least 15 days before the date of the shareholders’ meeting;

b) Dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;

c) Offers for distribution of securities to existing or former directors or employees by their employer which has securities already admitted to trading on a regulated market or by an affiliated undertaking, provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer;
3. In the cases referred to in the preceding number and paragraphs a), b), f), i) and j) of no. 1 of Article 111, the offeror shall be entitled to draw up a prospectus, in accordance with this Code and any supplementary legislation.

4. Save for the provisions of the preceding number, in public offers where a prospectus is not required, the information referred to in no. 2 shall be sent to the CMVM before the corresponding launch or the circumstances contemplated therein.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 135
General principles

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

2. The business plans and forecasts of the results of the issuer as well as the evolution of the price of the securities that are the object of the offer should be:

a) Clear and objective;

b) Comply with the provisions of Regulation no. 809/2004/EC of the Commission of 29 April;

c) [Repealed.]

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 135-A

Summary of the prospectus of a public offer for distribution

1. Irrespective of the format adopted for its preparation, the prospectus of a public offer for distribution shall include a summary which provides, concisely and in non-technical language, the essential characteristics and risks associated with the issuer, the guarantor, if any, and the securities concerned by the offer.

2. The summary shall refer to the framework laid down in no. 4 of Article 149 and contain a warning that:

   a) It should be read as an introduction to the prospectus;

   b) Any decision to invest in the securities should be based on consideration of the prospectus as a whole by the investor.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 135-B

Format of the prospectus of a public offer for distribution

1. A prospectus of a public offer for distribution may be drawn up as a single document or separate documents.

2. A prospectus composed of separate documents shall divide the required information into a registration document, a securities note and a summary.

3. The registration document shall contain the information relating to the issuer and shall be previously submitted to the CMVM for approval or notification.

4. The securities note shall contain the information on the securities concerned by the public offer.

5. An issuer which already has an approved and valid registration document shall be required to draw up only the securities note and the summary in the case of a public offer of securities.

6. In the case referred to in the preceding number, the securities note shall provide information that would normally be provided in the registration document if there has been a material change or recent
development which could affect investors' assessment since approval of the latest updated registration document or any supplement.

7. If the registration document has been previously approved and is valid, the securities note and the summary shall be approved in the context of approval of the prospectus.

8. If the registration document has only been previously notified to the CMVM without approval, the three documents shall be subject to approval in the context of approval of the prospectus.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 135-C
Base prospectus

1. A base prospectus, containing information on the issuer and the securities, may be used in public offers for distribution of:
   a) Non-equity securities, including warrants issued under an offering programme;

   b) Non-equity securities issued in a continuous or repeated manner by credit institutions, where:

   i) The sums deriving from the issue of the said securities are placed in assets which provide sufficient coverage for the liability deriving from the securities until their maturity date; and

   ii) In the event of the insolvency of the related credit institution, the said sums are intended, as a priority, to repay the capital and interest falling due.

2. For the purposes of the provisions of paragraph a) of the preceding number, offering programme means an offer for distribution of securities having a similar type and/or class in a continuous or repeated manner under a common plan involving at least two issues over a 12-month period.

3. The base prospectus shall be supplemented, if necessary, with updated information on the issuer and on the securities to be offered to the public, by means of a supplement.

4. If the final terms of the offer are not included in either the base prospectus or a supplement, the same shall be provided to investors
and filed with the CMVM as soon as practicable and, if, possible in advance of the beginning of the offer.

5. The content of the base prospectus and the corresponding final terms and their dissemination shall comply with the provisions of Regulation no. 809/2004/EC of the Commission of 29 April.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 136**

**General contents of the prospectus**

The prospectus shall notably contain information on:

a) The individuals who, according to Article 149, are responsible for its contents;

b) The purposes of the offer;

c) The issuer and its activity;

d) The offeror and its activity;

e) The issuer's corporate governance structure;

f) The name of the members of the issuer's and the offeror's governing bodies;

g) The financial intermediaries that are members of the placing consortium, when such exists.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 136-A**

**Incorporation by reference**

1. Information may be incorporated in the prospectus by reference to one or more previously or simultaneously published documents that have been approved by the CMVM or filed with the CMVM in the context of the duties of disclosure impending upon issuers and holders of qualifying holdings in public companies.

2. When information is incorporated by reference, a cross-reference list must be included in the prospectus.
3. The summary of the prospectus cannot contain information incorporated by reference.

4. Incorporation by reference shall comply with the provisions of Regulation no. 809/2004/EC of the Commission of 29 April.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 137**

**Contents of the prospectus of a distribution public offer**

1. The content of the prospectus of a public offer for distribution shall comply with the provisions of Regulation no. 809/2004/EC of the Commission of 29 April.

2. The prospectus of a public offer for distribution shall also include declarations by the persons who are responsible for its content in the terms of Article 149 that, to the best of their knowledge, the information contained in the prospectus is in accordance with the facts and that the prospectus makes no omission likely to affect its import.

3. If the offer affects securities already admitted or expected to be admitted to listing on a regulated market situated or functioning in Portugal or in any other Member State of the European Community, a single prospectus satisfying the requirements of both may be approved and used.

4. [Repealed.]

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 138**

**Contents of the prospectus of a take-over**

1. In addition to what is contemplated in no. 1 of article 183-A, the prospectus of a takeover bid shall contain information on:

   a) The consideration offered and its justification;

   b) The minimum and maximum amounts of securities that the offeror intends to acquire;

   c) The percentage of voting rights that, according to Article 20(1), may be exercised by the offeror in the target company;
d) The percentage of voting rights that, according to Article 20(1), may be exercised by the target company in the offeror company;

e) Any person that, to the best of his knowledge, is in any of the circumstances contemplated in no. 1 of article 20 with regard to the offeror or the offeree company;

f) The securities of the same class as those that are the object of the offer, and have been acquired in the previous six months by the issuer or anyone who is in a relationship as set out in Article 20(1), indicating the acquisition dates, amount and consideration;

g) The offeror’s intentions with regard to continuity or alteration of the business of the offeree company and, in so far as it is affected by the bid, the offeror company, and, in the same terms, companies which have group or control relationships with the offeree or offeror companies, with regard to the safeguarding of jobs and terms of employment of their employees and management, in particular the possible repercussions on the locations of the companies' places of business, maintenance of the publicly traded status of the offeree company and trading on a regulated market of the securities concerned by the bid;

h) Possible implications of a successful bid for the financial condition of the offeror and any funding of the bid;

i) The shareholders’ agreements, entered into by the offeror or any entity described in Article 20(1), with significant influence on the target company;

j) The agreements entered into between the offeror or any entity described in Article 20(1) and the members of the governing bodies of the target company, including any special advantages that may have been stipulated in their favour;

l) The method of payment of the consideration when the securities that are the object of the offer are also listed on a regulated market located or functioning abroad;

m) The compensation proposed in the event of removal of rights under the rules laid down in article 182-A, stating the form of payment and method used to calculate its amount;
n) The domestic legislation shall apply to agreements entered into by the offeror and holders of securities in the offeree company, following acceptance of a bid, as well as the courts having jurisdiction to resolve any disputes resulting therefrom;

o) Any charges to be borne by the addressees of the bid.

2. If the consideration consists of securities, issued or to be issued, the prospectus should include all the information which would be required if the securities were the object of a public offer for sale or subscription.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

**Article 139**

**Adaptation of the prospectus in special cases**

Without prejudice to information appropriate to investors, where, exceptionally, certain information required, notably under Regulation no. 809/2004/EC of the Commission of 29 April, to be included in the prospectus is inappropriate to the issuer’s sphere of activity or to the legal form of the issuer or to the securities to which the prospectus relates, the prospectus shall contain, where possible, information equivalent to the required information.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 140**

**Disclosure**

1. No prospectus shall be published until it has been approved by the CMVM, and the corresponding text and format to be disclosed shall at all times be identical to the original approved version.

2. Upon approval, the final version of the prospectus, mentioning the date of approval or the registration number, shall be sent to the CMVM and made available to the public by the offeror reasonably in advance given the characteristics of the offer and the investors for whom it is intended.

3. The prospectus shall be disclosed:

a) In the event of a public offer for distribution preceded by a negotiation of rights, no later than the working day before the day on which the rights are detached;
b) In all other public offers for distribution, no later than the beginning of the public offer it concerns.

4. In the event of a public offer of a class of shares not yet admitted to trading on a regulated market and which is intended to be admitted to trading on a regulated market for the first time, the prospectus must be available at least six working days before expiry of the offer period.

5. The prospectus shall be deemed available to the public when published either:

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

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

c) In electronic form on the issuer's website and, if applicable, on the website of the financial intermediaries placing or selling the securities, including paying agents; or

d) In electronic form on the website of the regulated market where admission to trading is sought; or

e) In electronic form on the CMVM’s website.

6. If the offeror elects to disclose the prospectus through the forms contemplated in paragraphs a) or b) of the preceding number, it shall also disclose the prospectus in electronic form in accordance with paragraph c) of the preceding number.

7. In the event of the prospectus comprising several documents and/or incorporating information by reference, the documents and information composing the prospectus may be published and circulated separately, provided that the said documents are made available, free of charge, to the public, in accordance with the provisions of the preceding numbers.

8. For the purposes of the preceding number, each document shall
indicate where the other constituent documents of the full prospectus may be obtained.

9. Where the prospectus is made available by publication in electronic form, a paper copy must nevertheless be delivered to the investor, upon his request and free of charge, by the issuer, the offeror or the financial intermediaries placing or selling the securities.


(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 140-A**

*Notice of availability of the prospectus*

1. In public offers whose prospectus is made available only in electronic format, in the terms of paragraphs c), d) and e) of no. 5 of the preceding Article, a notice stating that the prospectus has been made available must be disseminated.

2. The content and dissemination of the notice of availability of the prospectus shall comply with the provisions of Regulation no. 809/2004/EC of the Commission of 29 April.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 141**

*Exemption from the inclusion of matters in the prospectus*

Following the issuer’s or the offeror’s request, the CMVM may authorise the omission from the prospectus of certain information, provided that:

a) Disclosure of such information would be contrary to the public interest;

b) Disclosure of such information would be seriously detrimental to the issuer, provided that its omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the issuer, offeror or guarantor, if any, and of the rights attached to the securities to which the prospectus relates; or

c) Such information is of only minor importance to the offer and is not
such as will influence the assessment of the financial position and prospects of the issuer, offeror or guarantor, if any.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 142
Addendum and rectification of the prospectus**

1. If, from the date of approval of the prospectus to the offer's deadline, any shortcoming in the prospectus is detected or any new fact occurs or any fact not previously considered is brought to light, which is relevant to the decision to be taken by the addressees, the approval for addendum or rectification of the prospectus should be immediately requested from the CMVM.

2. A supplement or rectification to the prospectus shall be approved within seven working days of the application therefore and shall be disclosed in the terms of Article 140.

3. The summary, and any translations thereof, shall also be supplemented or rectified, if necessary, to take into account the new information included in the supplement or rectification.

4. Investors who have already agreed to accept the offer before the supplement or rectification is published shall have the right, exercisable within a time limit which shall not be shorter than two working days after the supplement or rectification is made available to the public, to withdraw their acceptances.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 143
Validity of the prospectus**

1. Prospectuses of public offers for distribution and base prospectuses shall be valid for 12 months after the date on which they are made available to the public, provided that the prospectuses are completed with any supplements required pursuant to Article 142.

2. In the event of the public offer of non-equity securities referred to in paragraph b) of no. 1 of Article 135-C, the prospectus shall be valid until no more of the securities concerned are issued in a continuous or repeated manner.
3. The registration document shall be valid for a period of up to 12 months from the date of approval of the annual accounts on which it is based.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 144
Reference prospectus
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

SubSection II
Prospectus of an international offer

Article 145
Competent authority

1. The CMVM is the competent authority to approve prospectuses of public offers for distribution whose issuers have their registered address in Portugal, in respect of the issue of shares, securities giving the right to acquire any of the aforementioned securities, provided that securities of the latter type are issued by the issuer of the underlying shares or by an entity belonging to the group of the said issuer, and other securities with a denomination per unit of less than 1,000 euros.

2. The Member State where the issuer has its registered address or where the securities were or will be admitted to trading on a regulated market or offered to the public, at the choice of the issuer or offeror, shall be competent to approve the prospectus of a public offer for distribution of:

   a) Non-equity securities with a minimum denomination per unit of 1,000 euros;

   b) Non-equity securities giving the right to acquire any securities or to receive a cash amount, as a consequence of their being converted or the rights conferred by them being exercised, provided that the issuer of the non-equity securities is not the issuer of the underlying securities or an entity belonging to the group of the latter issuer.

3. The Member State where any securities not mentioned in the preceding number are intended to be offered to the public for the first time or where the application for admission to trading on a regulated
market is made for the first time, at the choice of the issuer or the offeror, as the case may be, subject to a subsequent selection by issuers incorporated in a third country if the home Member State was not determined by their choice, shall be competent to approve the prospectus of a public offer for distribution whose issuer is incorporated in a third country.

4. The CMVM may choose to delegate the approval of a prospectus of a public offer for distribution to the competent authority of another Member State, upon obtaining the latter’s prior consent.

5. The delegation of the powers contemplated in the preceding number shall be notified to the issuer or the offeror within three working days of the CMVM’s decision.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 145-A
Competent authority for takeover bids

1. The CMVM shall have powers to supervise any takeover bids concerning securities issued by companies subject to Portuguese law as their personal law, provided the securities concerned by the bid:

   a) Are admitted to trading on a regulated market situated or operating in Portugal;

   b) Are not admitted to trading on a regulated market.

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

   a) Are admitted exclusively to trading on a regulated market situated or operating in Portugal; or

   b) If not admitted to trading in the Member State where the registered office of the issuer is located, have been first admitted to trading on a regulated market situated or operating in Portugal.

3. If the admission to trading of the securities concerned by the bid is simultaneous in more than one regulated market of several Member States, not including the Member State where the registered office of the issuer is located, the issuer shall, on the first day of trading,
choose the competent authority to supervise the bid from among the authorities of such Member States and notify this decision to the regulated markets in question and the corresponding supervisory authorities.

4. Where the CMVM is competent in the terms of the preceding number, the company’s decision shall be disclosed via the CMVM’s information system.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)

**Article 146**

**Community scope of the prospectus**

1. A prospectus approved by the competent authority of a European Union Member State in respect of a public offer for distribution to be made in Portugal and another Member State shall be valid in Portugal, provided the CMVM receives from the competent authority:
   a) A certificate of approval attesting that the prospectus has been drawn up in accordance with Directive no. 2003/71/EC of the European Parliament and the Council of 4 November, and justifying, where applicable, the exemption from including information in the prospectus;
   b) A copy of the aforementioned prospectus and, where applicable, a translation of the corresponding summary.

2. If there are significant new factors, material mistakes or inaccuracies in the prospectus, the CMVM may draw the attention of the competent authority that approved the prospectus to the need for any new information and consequent publication of a supplement.

3. For the purposes of international use of a prospectus approved by the CMVM, the documents referred to in no. 1 shall be supplied by the CMVM to the competent authority of the other Member States where the offer also takes place within three working days of the date of the request for this purpose addressed to the CMVM by the offeror or the financial intermediary in charge of assistance, or within one working day of the date of approval of the prospectus, if such request is submitted together with the application to register the offer.

4. The offeror shall be liable for the translation of the summary.
5. The provisions of the preceding numbers also apply to supplements and rectifications to a prospectus.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 147**

**Non-Community issuers**

1. The CMVM may approve the prospectus of a public offer for distribution of securities of an issuer having its registered office in a non-European Union Member State drawn up in accordance with the legislation of a non-European Union Member State, provided that:

   a) The prospectus has been drawn up in accordance with international standards set by international securities commission organisations, including the International Organisation of Securities Commissions; and
   
   b) The prospectus contains information, including information of a financial nature, equivalent to the requirements under this Code and Regulation no. 809/2004/EC of the Commission of 29 April.

2. The provisions of Article 146 shall also apply to the prospectuses referred to in this Article.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 147-A**

**Mutual recognition**

1. The prospectus of a takeover bid over securities admitted to trading on a regulated market situated or operating in Portugal and approved by a competent authority of another Member State shall be recognised by the CMVM, provided that:

   a) It is translated into Portuguese, without prejudice to the provisions of no. 2 of article 6;
   
   b) A certificate, issued by the competent authority responsible for approval of the prospectus, stating that the prospectus meets the relevant Community and national provisions, accompanied by the approved prospectus, is made available to the CMVM.
2. The CMVM may require that any supplementary information resulting from the specificities of the Portuguese regime concerning formalities relating to payment of the consideration, acceptance of the bid and the tax regime applicable thereto be added.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)

**Article 148**
**Co-operation**

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

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**SubSection III**
**Liability for the prospectus**

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 149**
**Scope**

1. The following are liable for damages caused by the non-compliance with the contents of the prospectus in accordance with the provisions of Article 135, except in the case they prove to have acted without fault:

   a) The offeror;

   b) The members of the offeror's management body;

   c) The issuer;

   d) The members of the issuer's management body;

   e) The promoters, in the case of offer for subscription for the incorporation of a company;
f) The members of the auditing body, accounting firms, chartered accountants and any other individuals that have certified or, in any other way, verified the accounting documents on which the prospectus is based;

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

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

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

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

4. Liability shall be further excluded if the damages contemplated in no. 1 result only from the summary of the prospectus, or any translation thereof, unless it is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 150
Strict liability

The following are liable independently of fault:

a) The offeror, if any individual mentioned in Article 149(1) (b), (g) and (h) is held responsible;

b) The issuer, if any individual mentioned in Article 149(1) (d), (e) and (f) is held responsible;

c) The leader of the placement consortium, if a member of the consortium is held responsible, according to Article 149(1) (g).
Article 151
Joint liability

If several individuals are liable for the damage caused, their liability is joint.

Article 152
Compensatory damages

1. The compensation should place the injured party in the exact situation it would be in if, at the moment of acquisition or alienation of securities, the contents of the prospectus had been in accordance with the provisions of Article 135.

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

Article 153
Termination of the right to compensation

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

Article 154
Legally binding

The rules set out in this subSection may not be set aside or modified by any legal transaction.

Section VI
Regulation

Article 155
Issues to be regulated

The CMVM prepares the regulations necessary for the completion of the provisions of the present Section, namely on the following matters:

a) The procedure for subsequent communication of private offers related to securities;
b) The model for prospectuses of takeover bids;

c) The minimum amount of securities that may be the object of a public offer;

d) The place for publication of the public offer's result;

e) The Greenshoe option;

f) The investment intention's solicitation, especially as to the contents and disclosure of the preliminary announcement and prospectus;

g) The prerequisites to be met by the securities that comprise the consideration of a take-over;

h) The information duties that are ascribed to those who benefit from an exemption from the mandatory obligation to launch a takeover;

i) Fees owed to the CMVM for registration of public offers for distribution, approval of prospectuses prior to soliciting intentions to invest, registration of takeover bids and approval of advertising material;

j) The information duties for the distribution by public offer of the securities described in Article 1(g);

l) The content and form of disclosure of the information referred to in no. 2 of Article 134.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Chapter II
Public offers for distribution

Section I
General provisions

Article 156
Feasibility study
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)
Article 157
Provisional registration
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 158
Distribution of supplementary shares
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 159
Offer price

1. Where the final offer price and amount of securities which will be offered to the public cannot be included in the prospectus, this information may be omitted from the prospectus, provided that:

a) The criteria, and/or the conditions in accordance with which the offer price and amount of securities will be determined or, in the case of the price, the maximum price are disclosed in the prospectus; or

b) Acceptances of the purchase or subscription of securities may be withdrawn during a period of no less than two working days after the final offer price and amount of securities which will be offered to the public have been filed.

2. As soon as the same are determined, the final offer price and the amount of securities shall be notified to the CMVM and disclosed in the terms of Article 140.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 160
Price stabilisation
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 161
Incomplete distribution

If the total amount of the securities which are the object of acceptance declarations is less than the amount offered, the offer is effective in
relation to the securities effectively distributed, except for any legal provision or offer terms to the contrary.

**Article 162**

**Disclosure of information**

1. The issuer, the offeror, the financial intermediaries in a public offer for distribution, definitive or proposed, and those who are involved in any of the situations set out in Article 20(1) should, until the information related to the offer is made public:

   a) Limit the disclosure of information related to the offer to what is necessary to fulfil the objectives of the offer, warning the addressees as to the privileged nature of the information issued.

   b) Limit the use of privileged information to such purposes as necessary for the preparation of the offer.

2. The entities described in the previous sub-article that, as from the moment that the offer is made public, release information related to the issuer or the offer should:

   a) Observe the principles the quality of information should comply with;

   b) Ensure that the information provided is consistent with that contained in the prospectus;

   c) Clarify their relations with the issuer or their interest in the offer.

*(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)*

**Article 163**

**Failure of admission to listing**

1. When a public offer for distribution is accompanied by the information that the securities which are its object are intended to be admitted to listing on a regulated market, the addressees of the offer may cancel the acquisition transaction if:

   a) The admission to listing has not been applied for until the assessment of the offer's result; or
b) The admission is denied based on a fact triggered by the issuer, offeror, financial intermediary or those involved with them in any of the situations set out in Article 20(1).

2. The decision should be reported to the issuer up to 60 days after the refusal of admission to a regulated market or after the disclosure of the offer's result, if an admission application has not been submitted within this time period.

3. The issuer should return the amounts received within 30 days of the receipt of the decision.

Article 163-A
Language

1. The prospectus of a distribution public offer may be written, wholly or partially, in a language commonly used in international financial markets:

a) If its presentation does not result from a legal requirement;

b) If it has been prepared as part of an offer submitted to different States;

c) If the individual law of the issuer is a foreign law.

2. In the cases contemplated in paragraphs b) and c) of the preceding number, the CMVM may require that the summary also be disseminated in Portuguese.

(Amended by Article 2 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section II
Investment intention's solicitation

Article 164
Admissibility

1. Investment intention's solicitation is permitted to determine the viability of an eventual public offer for distribution.

2. Investment intention's solicitation may only be initiated after the disclosure of the preliminary prospectus.
3. Investment intention's solicitation may not serve as a means of entering into contracts, but may grant to those individuals consulted more favourable conditions in a future offer.

**Article 165**  
**Preliminary prospectus**

1. The preliminary prospectus to solicit intentions to invest must be approved by the CMVM.

2. The application for approval of the preliminary prospectus must be supported by the documents referred to in paragraphs a) to g) of no. 1 of Article 115, accompanied by the draft preliminary prospectus.

3. The preliminary prospectus shall comply with Regulation no. 809/2004/EC of the Commission of 29 April, all necessary changes being made.

*(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)*

**Article 166**  
**Liability for the prospectus**

The liability for the contents of the preliminary prospectus is subject, with the necessary adaptations, to the provisions of Article 149 et seq.

**Article 167**  
**Advertising**

Advertising is permitted as from the disclosure of the preliminary announcement, subject to the provisions of Articles 121 and 122.

**Section III**  
**Public subscription offers**

**Article 168**  
**Public offers for subscription for incorporation of a company**

In addition to the documents required under paragraphs j) to n) of no. 1 of Article 115, the application for approval of a prospectus of a public offer for subscription for incorporation of a company must be supported by the following particulars:

a) Identification of the promoters;
b) Documentation proving the subscription of the minimum share capital by the promoters;

c) Copy of the draft bylaws;

d) Provisional company registration certificate.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 169**

**Successive offers and offers in series**

The launching by the same entity of a new subscription offer of securities of the same kind as those which had been the object of a previous offer or the launching of a new series depends on the prior payment of the full subscription price, or the placing on hold of the write-off subscribers and the accomplishment of the formalities associated with the previous issue or series.

**Section IV**

**Public offer for sale**

**Article 170**

**Blocking of securities**

The application for approval of a prospectus of a public offer for sale must be supported by a certificate evidencing the blocking of the securities offered.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 171**

**Co-operation duty of the issuer**

The issuer of securities distributed in a public offer for sale should provide the offeror, at its own expense, with the information and documentation necessary to prepare the prospectus.

**Article 172**

**Revision of the offer**

1 – The CMVM may, only once, authorise a reduction of not less than 5% of the price initially announced.

2. The revision of the offer is subject to the provisions of Article 129.
Chapter III  
Take-overs

Section I  
General provisions

Article 173  
Object of the offer

1. The take-over is addressed to all the holders of securities that are the object of the offer.

2. If the takeover does not entail the acquisition of the totality of the shares of the target company and securities issued by the target company, which confer the right to its subscription or acquisition, neither the offeror nor any other individual involved in any of the situations as described in Article 20(1) may accept the offer.

3. The rules on the preliminary announcement, duties of disclosure of transactions made, the issuer’s duties, competing bids and mandatory takeover bids shall not apply to takeover bids launched exclusively for securities other than shares or securities giving a right to subscribe or acquire shares.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 174  
Confidentiality

The offeror, the target company, its shareholders, the members of the governing bodies, and all those who render services on a permanent or occasional basis should maintain confidentiality on the preparation of the offer until publication of the preliminary announcement.

Article 175  
Publication of the preliminary announcement

1. As soon as the decision to launch a take-over is made, the offeror should send the preliminary announcement to the CMVM, target company and managing entities of the regulated markets on which the securities that are the object of the offer or comprise the consideration for the offer are listed, immediately proceeding with the respective publication.
2. The publication of the preliminary announcement obliges the offeror to:

a) Launch the offer in terms no less favourable to the addressees than those contained in this announcement;

b) Apply for registration of the offer within the term of 20 days, extendable by the CMVM up to sixty days in public offers for exchange;

c) Inform the representatives of its employees or, failing these, the employees of the content of the offer documents, as soon as these are made public.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 176
Contents of the preliminary announcement:

1. The preliminary announcement should contain:

a) The name, denomination or trade name of the offeror and its domicile or headquarters;

b) The name and headquarters of the target company;

c) The securities that are the object of the offer;

d) The consideration offered;

e) The financial intermediary in charge of assisting with the offer if one has already been designated;

f) The percentage of voting rights in the target company held by the offeror and individuals who are involved in one of the situations as described in Article 20, calculated, with the necessary adjustments, according to this Article;

g) A summary statement of the offeror’s intentions, notably with regard to continuity or alteration of the business of the offeree company and, in so far as it is affected by the bid, the offeror company, and, in the same terms, companies which have group or control relationships with the offeree or offeror companies;

h) The status of the offeror in respect of the matters referred to in article 182 and no. 1 of article 182-A.
2. The determination of a maximum or minimum limit of the quantity of securities to be acquired and the encumbrance of the offer to any conditions are only effective if they are contained in the preliminary announcement.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

**Article 177**

**Consideration**

1. The consideration may consist of cash, securities already issued or to be issued, or a mixture.

2. If the consideration consists of cash, the offeror should deposit the total amount with a financial institution or present an appropriate bank guarantee, before registration of the offer.

3. If the consideration consists of securities, these should have appropriate liquidity and be easy to evaluate.

**Article 178**

**Public exchange offer**

1. The securities offered as consideration, which has already been issued, should be registered or deposited to the order of the offeror in a centralised system or with a financial intermediary, thus blocking the same.

2. Preliminary announcements and announcements of launch of a takeover bid whose consideration consists of securities other than securities issued by the offeror shall also include the details concerning the issuer and any securities issued or to be issued by the issuer referred to in article 176 and in no. 1 of article 183-A.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

**Article 179**

**Registration of the take-over**

In addition to the provisions of Articles 115 and 116, the application for registration of a take-over submitted to the CMVM is filed with documents proving the following facts:

a) The submission of the preliminary announcement, draft public offer's announcement and draft prospectus to the target company and
competent authorities of the regulated markets on which the securities are listed;

b) Deposit of the consideration in money or by issue of a bank guarantee that guarantees its payment;

c) Blockage of the securities already issued which comprise the consideration and those described in Article 173(2).

**Article 180**

**Transactions during the offer**

1. As from the publication of the preliminary announcement and until the assessment of the offer's result, the offeror and those involved in any of the situations described in Article 20:

   a) Securities of the class of those which are the object of the offer or those which comprise the consideration cannot be traded outside regulated markets, except if authorised by the CMVM with a previous opinion from the target company;

   b) Should inform the CMVM daily of the transactions carried out by each of them relating to the securities issued by the target company or the class of those which comprise the consideration.

2. The acquisitions of securities of the class of those which are the object of the offer or comprise the consideration, carried out after the publication of the preliminary announcement, are considered in the calculation of the minimum amount which the purchaser proposes to acquire.

3. If any of the acquisitions referred to in the preceding number occur:

   a) In the context of voluntary takeover bids, the CMVM may determine a review of the consideration if, as result of such acquisitions, the consideration does not appear to be equitable;

   b) In the context of mandatory takeover bids, the offeror must increase the consideration to a price not lower than the highest price paid for the securities thus acquired.

*(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)*
*(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)*
Article 181
Duties of the target company

1. Within eight days of receipt of the draft prospectuses and announcement of the bid and within five days of disclosure of any addenda to the offer documents, the board of the offeree company shall send to the offeror and the CMVM and disclose to the public a report drawn up in the terms of article 7 on the opportunity and terms of the offer.

2. The report referred to in the preceding number shall contain an autonomous and reasoned opinion on at least the following aspects:

   a) The type and amount of the consideration offered;

   b) The offeror’s strategic plans for the offeree company;

   c) The repercussions of the bid on the interests of the offeree company, in general, and, in particular, on the interests of its employees and their terms of employment and the locations of the company's places of business;

   d) The intentions of members of the boards who are simultaneously shareholders in the offeree company, in respect of acceptance of the bid.

3. The report shall contain information on possible votes against expressed in the resolution of the board that adopted it.

4. If, by commencement of the bid, the board receives from the employees, directly or through their representatives, an opinion on the repercussions of the bid on employment, it shall be disseminated as an appendix to the report prepared by the board.

5. The management body of the target company, from the publication of the preliminary announcement until the assessment of the result of the offer, should:

   a) Inform the CMVM daily as to the transactions by its members, or individuals involved in any of the situations described in Article 20(1), in securities issued by the target company;

   b) Supply all the information requested by the CMVM in the ambit of its supervisory functions;
c) Inform the representatives of its employees or, failing these, the employees of the content of the offer documents and the report prepared by it, as soon as these are made public;

d) Act in good faith, particularly, concerning the accuracy of information and honest behaviour.

(Rectified by Rectification Declaration No. 1-A/2000)
(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

**Article 182**

**Limitation of the powers of the target company**

1. From the moment it has knowledge of the decision to launch a take-over for more than one third of the securities of the respective class, and until the assessment of the result or until the prior termination of the respective process, the management body of the target company may not perform acts that materially affect the net equity of the target company and which may significantly affect the objectives announced by the offeror, apart from the normal day to day management of the company.

2. For the purposes of the previous sub-article:

a) The target company has knowledge of the offer’s launching upon the receipt of preliminary announcement;

b) Relevant changes in the net asset situation of the target company, particularly, the issue of shares and other securities conferring the right to their subscription or acquisition and the entering into contracts representing the sale of important portions of the company’s assets;

c) The restriction includes acts enforcing decisions made before the period referred to therein which have not yet been fully or partially enforced.

3. Exceptions to the provisions of the previous sub-articles are:

a) The acts resulting from the fulfilment of obligations assumed before the knowledge of the offer launch;

b) Acts authorised by a shareholders’ meeting called exclusively to such end during the period referred to in no. 1;

c) Acts intended to seek competing offerors.
4. During the period referred to in no. 1:

a) The period to disseminate the notification of a shareholders’ meeting is reduced to 15 days in advance of the meeting;

b) The resolutions of the shareholders’ meeting contemplated in paragraph b) of the preceding number, as well as any resolutions on early distribution of dividends and other income, can only be adopted by the majority of votes required to amend the articles of association.

5. The offeror is responsible for the damages incurred due to the decision to launch a take-over, taken with the main objective of placing the target company in the situation set out in this Article;

6. The regime laid down in this article shall not apply to takeover bids conducted by offeror companies which are not subject to the same rules or are controlled by a company not subject to the same rules.

7. In respect of companies which adopt the model referred to in paragraph c) of no. 1 of article 278 of the Commercial Companies Code, nos. 1 to 6 shall apply, all necessary changes being made, to the executive board, the general council and the supervisory council.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

**Article 182-A**

**Voluntary suspension of the effectiveness of restrictions on transfers and voting rights**

1. Companies subject to Portuguese law as their personal law may provide in their articles of association that:

a) The restrictions, contemplated in their articles of association or shareholders’ agreements, on the transfer of shares or other securities carrying rights to acquire shares will be suspended, producing no effects on transfers resulting from acceptance of a bid;

b) The restrictions, contemplated in their articles of association or shareholders’ agreements, concerning the exercise of voting rights will be suspended, producing no effects in shareholders’ meetings called in the terms of paragraph b) of no. 3 of the preceding article;

c) Where, following a takeover bid, at least 75% of the share capital carrying voting rights is achieved, the restrictions on transfers and
voting rights referred to in the preceding paragraphs shall not apply to the offeror, and no extraordinary rights to appoint or replace members of the board of the offeree company can be exercised.

2. The articles of association of publicly traded companies subject to Portuguese law as their personal law which do not fully exercise the option referred to in the preceding number cannot provide that changes to or removal of restrictions on transfers or voting rights are conditional upon a favourable vote of more than 75% of all votes cast.

3. The articles of association of publicly traded companies subject to Portuguese law as their personal law which exercise the option referred to in no. 1 may provide that the regime foreseen does not apply to takeover bids conducted by offeror companies not subject to the same rules or controlled by a company not subject to the same rules.

4. The offeror shall be liable for any damages caused by the suspension of effectiveness of shareholders’ agreements fully disclosed up to the date of publication of the preliminary announcement.

5. The offeror shall not be liable for damages caused to shareholders that voted in favour of the amendments to the articles of association for the purposes of no. 1 and any persons in the circumstances contemplated in article 20 with regard to the offeror.

6. Any approval of amendments to the articles of association for the purposes of no. 1 by companies subject to Portuguese law as their personal law and issuers of securities admitted to trading on a regulated market shall be notified to the CMVM and, in the terms of article 248, to the public.

7. Any clauses in the articles of association concerning suspension of the effectiveness of restrictions on transfers and voting rights referred to in no. 1 cannot be in effect for a period in excess of 18 months, but may be renewed through a new resolution of the shareholders’ meeting, adopted in the terms laid down in the law to amend the articles of association.

8. The provisions of this article shall not apply in the event of a Member State being a holder of securities in the offeree company conferred with special rights.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)
Article 183
Offer period

1. The offer period may vary between two and ten weeks.

2. The CMVM, on its own initiative or at the request of the offeror, may extend the offer in case of revision, launching of a competing offer or when the protection of the interests of the addressees so justifies.

Article 183-A
Offer announcement

1. In takeover bids, an offer announcement describing the essential components for the formation of the agreements it refers to must be published, including notably the following:

   a) Identification and registered office of the offeror, the issuer and financial intermediaries in charge of assisting in or placing the offer;

   b) Characteristics and amount of the securities concerned by the offer;

   c) Type of offer;

   d) Capacity in which the financial intermediaries act in the offer;

   e) Price and overall amount of the offer, nature and terms of payment;

   f) Offer period;

   g) Allotment criteria;

   h) Conditions precedent to effectiveness of the offer;

   i) Percentage of voting rights in the company held by the offeror and any persons related to the offeror as provided for in Article 20, calculated in the terms of such Article;

   j) Places of dissemination of the prospectus;

   l) Entity responsible for determining and disclosing the outcome of the offer.

2. The offer announcement shall be published simultaneously with disclosure of the prospectus, in a widely-distributed medium in
Portugal or an information disclosure medium designated by the operator of the regulated market where the securities are admitted to trading.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 184
Revision of the Offer

1. The offeror may review the consideration as to its nature and amount up to five days before expiry of the bid period.

2. A reviewed bid cannot contain conditions making it less favourable and its consideration must be at least 2% greater than the preceding offer as to its amount.

3. Article 129 is applied to the revision of the offer.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 185
Competing offer

1. As from the publication of the preliminary announcement of the take-over for securities listed on a regulated market, any other take-over of securities of the same class may only be carried out through a competing offer launched according to the terms of this Article.

2. Competing bids shall be subject to the general rules applicable to takeover bids, with the amendments contained in this article and articles 185-A and 185-B.

3. Any person that is in any of the circumstances contemplated in no. 1 of article 20 with regard to the initial offeror or a competing offeror cannot launch a competing bid, except if authorised by the CMVM, provided that the situation that leads to the attribution of voting rights ceases before registration of the bid.

4. Competing bids cannot relate to a lower quantity of securities than that concerned by the initial bid.

5. The consideration for a competing bid must be at least 2% greater as to its amount and cannot contain conditions making it less favourable.
6. The effectiveness of a competing bid cannot be conditional upon a higher percentage of acceptances by holders of securities or voting rights than that contained in the initial bid or a preceding competing bid, except if, for the purposes of the preceding number, such percentage is justified as a result of the voting rights in the offeree company already held by the offeror and any person that is in any of the circumstances contemplated in no. 1 of article 20 with regard to the offeror.

7. The offeree company shall ensure that all offerors are treated equally as to the information supplied to them.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 185-A
Procedures for competing bids

1. A competing bid must be launched no later than 5 days before expiry of the period of the initial bid.

2. Publication of a preliminary announcement at a time that does not make it possible to meet the deadline referred to in the preceding number shall not be permitted.

3. Upon the launch of a competing bid in time, the bid periods must coincide, and each competitive takeover bid must observe the minimum period of time laid down in no. 1 of article 183.

4. A request for registration of a competing bid shall be rejected by the CMVM if it concludes, on the basis of the date of submission of the request for registration of the bid and the examination of such request, that it is impossible to make a decision in time to launch the offer, pursuant to the provisions of no. 1.

5. Where the preliminary announcement of a competing bid is published after registration of the initial bid or prior competing bids, the periods of time set out in paragraph b) of no. 2 of article 175 and in no. 1 of article 181 shall be reduced to eight days and four days, respectively.

6. In the event of competing bids, acceptances may be withdrawn up to the last day of the acceptance period.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)
Article 185-B
Rights of prior offerors

1. The launch of a competing bid and the review of any competing bid shall entitle any offeror to review the terms of its offer, irrespective of having already done so or not under article 184.

2. If it wishes to exercise the right contemplated in the preceding number, the offeror shall notify its decision to the CMVM and publish an announcement within four working days of the launch of the competing bid or the review of the bid. Failing such publication, the terms of the offer are deemed to have been maintained.

3. The provisions of no. 5 of article 185 shall apply to the review of a bid in the case of competition.

4. The launch of a competing bid shall be a ground to withdraw voluntary bids in the terms of article 128.

5. The decision to withdraw a bid must be published as soon as it is made, but in no event later than four days following the launch of the competing bid.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)

Article 186
Succession of offers

Except for express authorisation granted by the CMVM for the protection of the interests of the target company or the addressees of the offer, neither the offeror nor any of the individuals involved in any of the situations described in Article 20(1) may, within twelve months following the publication of the assessment of the offer's result, launch directly, by means of a third party or on the account of a third party, any take-over for securities pertaining to the same class of those that were the object of the offer or that grant the right to their subscription or acquisition.
Section II
Mandatory takeovers

Article 187
Duty of launching a take-over

1. Anyone whose holding in a public company exceeds, directly or in accordance with Article 20(1), one third or a half of the voting rights attributable to the share capital, has the obligation of launching a take-over for the totality of shares and other securities issued by the company that granted the right to their subscription or acquisition.

2. The launching of an offer is not required when, exceeding the limit of one third, the entity proves before the CMVM that it neither has the control of the target company nor is involved with it in a group relationship.

3. Any entity proving that which is referred in the previous sub-article is obliged to:

   a) Communicate to the CMVM any change in the percentage of voting rights resulting in an increase greater than one percent in relation to the previously communicated situation; and

   b) Launch a takeover as soon as it acquires a position allowing it to exercise a dominant influence over the target company.

4. The limit of one third described in sub-article (1) may be eliminated by the bylaws of publicly held companies that do not have shares or securities granting the right to their subscription or acquisition listed on a regulated market.

5. For the purposes of this Article the restraint of voting rights set out in Article 192 is irrelevant.

Article 188
Consideration

1. The consideration for a mandatory take-over may not be less than the highest of the following amounts:

   a) The highest price paid by the offeror or by any individuals involved in some of the situations described in Article 20(1), for the acquisition
of securities of the same class, in the six months immediately prior to
the date of publication of the preliminary announcement of the offer;

b) The average price of these securities verified in a regulated market
during the same period.

2. If the consideration may not be calculated by reference to the
criteria described in sub-article 1 or if the CMVM understands that the
consideration, in cash or securities, proposed by the offeror is not duly
justified or equitable, is insufficient or excessive, the minimum
consideration will be calculated, at the offeror's expense, by an
independent auditor nominated by the CMVM.

3. A consideration, in cash or securities, proposed by the offeror, shall
be presumed to be inequitable in the following circumstances:

a) If the highest price has been set by means of an agreement
between the purchaser and the seller through private negotiation;

b) If the securities in question have low liquidity with reference to the
regulated market on which they are admitted to trading;

c) If such consideration was determined on the basis of the market
price of the securities in question and this market price or the
regulated market on which the securities are admitted to trading has
been affected by extraordinary events.

4. The CMVM's decision concerning the appointment of an independent
auditor to determine the minimum consideration, as well as the
amount of the consideration determined in this way, shall be made
public without delay.

5. The consideration may consist of securities, provided that these
securities are of the same type as those concerned by the bid and are
admitted or are of the same class of demonstrably liquid securities
admitted to trading on a regulated market, and provided that the
offeror and any person that is in any of the circumstances
contemplated in no. 1 of article 20 with regard to the offeror have not
acquired any shares representing the offeree company’s share capital
for a consideration in cash in the six-month period preceding the
preliminary announcement, in which case an equivalent consideration
in cash must be offered.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)
**Article 189**

**Exemption**

1. The provisions of Article 187 do not apply when the limit of the voting rights relevant to the terms of that provision has been exceeded due to:

   a) The acquisition of securities by a take-over launched over the totality of securities described in Article 187 issued by the target company, without any restriction relating to the quantity or maximum percentage of securities to be acquired and in compliance with the requirements set out in the previous Article;

   b) The execution of a financial recovery plan within the scope of one of the types of recovery prescribed by law;

   c) The merger of companies, if the resolution of the general Meeting of the issuing company of securities in relation to which the offer would be launched, expressly specifies that the operation would result in the duty to launch a take-over.

2. The exemption of the duty to launch an offer is the object of a declaration by the CMVM, requested and immediately published by the interested party.

**Article 190**

**Suspension of duty**

1. The duty to launch a takeover bid shall be suspended if the person under such a duty, immediately upon occurrence of the events giving rise to such duty and by means of a written notice addressed to the CMVM, undertakes to cause such events to cease within the following 120 days.

2. Within this period the interested party should sell, to those who, in relation to the same, are not involved in any of the situations set out in Article 20(1), securities sufficient for their voting rights to be reduced below the limits described in Article 187.

3. During the period of suspension, the voting rights may not be exercised according to Article 192(1) (3) & (4).

*(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)*
Article 191
Compliance

1. Publication of the preliminary announcement of the bid must be effected immediately upon occurrence of the events giving rise to the duty to launch a bid.

2. The individual so obliged may be substituted by another in the compliance of such obligation.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 192
Restraint of rights

1. The failure to fulfil the obligation of launching take-over results in the immediate restraint of the voting rights and dividends relating to the shares that:

a) Exceed the limit from which a launch would be mandatory;

b) Have been acquired by the exercise of rights inherent in the shares referred in the previous paragraph or in other securities granting the right to their subscription or acquisition;

2. The restraint is in force for five years, ceasing:

a) Totally, with the publication of a preliminary announcement of a take-over by a consideration not less than would be demanded if the duty had been accomplished in due time;

b) In relation to each share described in the previous sub-article, at the time of its sale to individuals not involved in any of the situations described in Article 20(1).

3. The restraint covers, firstly, the shares directly held by the individual obliged to launch the offer and, successively, to the extent necessary, those held by the individuals described in Article 20(1), according to the order of the respective clauses and in relation to those described in the same article, in the proportion of the shares held by each of them.

4. The deliberations of the shareholders that would have not been approved without the restrained votes are annulable.
5. The dividends that have been the object of restraint revert to the company.

**Article 193**  
**Civil liability**

The transgressor is liable for the damages caused to the holders of securities on which a take-over should have been launched.

**Section III**  
**Acquisition for the purpose of total control**

**Article 194**  
**Compulsory takeover**

1. Any person that, following the launch of a general takeover bid over an offeree which is a publicly traded company subject to Portuguese law as its personal law, achieves or exceeds, directly or in the terms of no. 1 of article 20, 90% of the voting rights corresponding to the share capital up to the determination of the outcome of the bid and 90% of the voting rights covered by the bid may, in the subsequent three months, acquire the remaining shares for a fair consideration, in cash, calculated in the terms of article 188.

2. If an offeror, as a result of acceptance of a general voluntary takeover bid, acquires at least 90% of the shares representing the share capital and carrying voting rights covered by the bid, it shall be presumed that the consideration for the bid corresponds to a fair consideration for acquisition of the remaining shares.

3. The controlling shareholder who makes the decision for a compulsory takeover should immediately publish a preliminary announcement and submit same to the CMVM for registration.

4. The provisions of Article 176(1) (a) to (e) apply to the contents of the preliminary announcement, with the necessary adaptations.

5. The publication of the preliminary announcement obliges the controlling shareholder to deposit the consideration with a credit institution, to the order of the holders of the remaining shares.

*(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)*
**Article 195**

**Consequences**

1. The acquisition becomes effective upon publication, by the interested party, of the registration with the CMVM.

2. The CMVM relays to the centralised system management entity or registering entity of the shares, the information necessary for the transfer between accounts.

3. If the shares held are certificated and not integrated in a centralised system, the company may proceed with the issue of new certificates representative of the acquired shares and the old certificates will only be used to legitimise the receipt of the consideration.

4. The acquisition shall immediately imply loss of the publicly traded status of the company and exclusion from trading on a regulated market of the shares in the company and securities carrying rights to shares, and their readmission shall not be permitted for one year.

*(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)*

**Article 196**

**Compulsory sale**

1. Every holder of the remaining shares may, in the three-month period following the determination of the outcome of the takeover bid referred to in no. 1 of article 194, exercise his right to sell-out, to which end he must address a written invitation to the controlling shareholders to make a proposal to acquire his shares within eight days.

2. In the lack of the proposal described in the previous sub-article or if the same is not considered satisfactory, any holder of the remaining shares may take the decision for a compulsory sale by means of a declaration before the CMVM submitted with:

   a) A document proving the deposit or the blockage of shares to be sold;

   b) Indication of the consideration calculated in the terms of nos. 1 and 2 of article 194;
3. Once the sale requirements have been verified by the CMVM, the sale is effective from the date of notification by that authority to the controlling shareholder.

4. The certificate of the notification constitutes a writ of execution.

(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 197
Equality of treatment

In compulsory acquisitions, equal treatment to holders of shares of the same class should be assured, in particular with regard to the calculation of the consideration.
Title IV
Markets

Chapter I
General provisions

Article 198
Notion

1. Any organisation or place, in which the trading of securities by an undetermined group of people acting on their behalf or through a representative is considered a securities market.

2. The simple rendering of financial services to clients through a financial intermediary acting within the scope of respective authorisation and the realisation of public offers, in accordance with the provisions of Title III of this Code, does not alone determine the creation of a securities market.

Article 199
Permitted markets

The following securities markets are permitted to function in Portugal:

a) Regulated markets;

b) Markets organised according to rules freely established by the respective market operator, designated by non-regulated markets;

c) Markets organised according to rules freely established by the respective managing entity.

2. Securities markets are subject to registration with the CMVM and may only be managed by entities that fulfil the requirements established in a special law.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 200
Regulated markets

1. Regulated markets are those which:
a) Function regularly;

b) Comply with the requirements laid down in chapter II of this title;

c) Are organised markets authorised at the request of a managing entity by means of an administrative rule of the Minister of Finance, after due consultation with the CMVM.

2. The CMVM communicates to the European Commission and Member States of the European Community, a list of the regulated markets, accompanied by the respective rules of organisation and functioning.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 201
Market rules and codes of conduct

1. For each market, the managing entity prepares and publishes the rules regarding the requirements for listing of securities and the respective procedure, as well as other rules necessary for the good functioning of that market.

2. The market rules come into force upon registration with the CMVM and are applicable to the said managing entity, the members of the market, the issuers of traded securities and investors.

3. The CMVM refuses the registration of market rules or imposes modifications when it considers them insufficient or contrary to legal or regulatory provisions.

4. The codes of conduct approved by the market managing entity apply to the members of the governing bodies and employees of the managing entity and market members.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 202
Information to the public

The market managing entity provides information to the public about:

a) Securities admitted for trading;

b) Operations carried out and their respective prices;
c) The fee schedule charged by the entity.

2. The contents, the means and the regular supply of information to the public should be appropriate to the characteristics of each market, to the level of knowledge of the investors and the composition of the various interests involved.

3. The CMVM may request an amendment of the rules relating to the information when it considers that they are not sufficient to protect investors.

Article 203
Members

1. Trading in a securities market is made by its members.

2. Only those financial intermediaries may be admitted as members who:

a) Are authorised to carry out securities operations; and

b) Participate in the settlement system for operations carried out in that market or who, for that purpose, have executed an agreement with a participant in that system.

3. The following financial intermediaries may also be admitted as members:

a) The qualified investors referred to in nos. 1 and 3 of Article 30, provided they meet the requirements of paragraph b) of the preceding number;

b) Other entities trading exclusively on their own behalf, in the terms to be defined by the CMVM regulation, if they satisfy the requirements of paragraph (b) of the previous sub-article.

4. The CMVM’s regulation should establish the conditions under which the entities described in the previous sub-article may render services accessory to their activity to other market members.

5. The responsibility for the admission of market members is assigned to the respective managing entity, according to principles of equality and respect for the rules of healthy and fair competition.
6. The intervention of the members in a market may be the mere registration of operations.

7. The CMVM may authorise that the functions of the members of a non-regulated market are exercised by the respective managing entity.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 204**

**Operations**

1. The list of the operations to be carried out in each market is defined by the managing entity of this market.

2. Operations accomplished in the market may have the following as their object:

   a) Fungible securities admitted to listing in that market, freely transferable, fully paid and not subject to pledge or any other legal situation which burdens them;

   b) Derivative financial instruments developed for trading in this market.

3. For the purposes of trading in the market, fungible securities are those securities belonging to the same category, obeying the same form of representation, objectively subject to the same tax system and from which no separate rights have arisen.

**Article 205**

**Admission to trading**

1. The admission of securities to trading on a regulated market depends on the decision of the managing entity of this market, at the issuer's request.

2. Securities may be admitted to trading on a non-regulated market by decision of the managing entity:

   a) At the issuers’ request;

   b) At the request of the holders of, at least, ten percent of the securities pertaining to the same category.
c) Provided the issuer does not oppose it, in the case of securities trading on a regulated market.

3. In the cases set out in the previous sub-article (b), the issuer is only under the obligation of submitting to the managing entity of the non-regulated market the necessary information for public disclosure, according to Article 202.

4. In the cases set out in sub-article (2) (c), the issuer is not under the obligation of sending any additional information following the admission of the securities to a non-regulated market.

5. The trading of securities admitted to a non-regulated market under sub-article (2)(c), is not necessarily affected by the later exclusion of those securities from the regulated market, provided the information required by the rules of that market continues to be disclosed.

6. The issuer of securities admitted to trading on a regulated market should, at the moment it requests the admission, appoints a representative with sufficient powers for relations with the market and the CMVM.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 206
Suspension of trading

1. The market managing entity should suspend the trading of securities in relation to which:

a) The requirements for admission are no longer met, provided the fault may be remedied;

b) Circumstances occur which, with a reasonable level of probability, are capable of disturbing regular trading activities;

c) The situation of the issuer implies that their trading is contrary to investors’ interests.

2. Each period of suspension of securities from trading shall not exceed 10 working days.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 207
Exclusion from trading

1. The managing entity should exclude from trading securities in relation to which:

   a) The requirements for admission are no longer met, if the fault may not be remedied;

   b) The problems that justified the suspension have not been resolved.

2. The exclusion of securities whose listing is a condition for the admission of other securities implies the exclusion of the latter.

Article 208
The CMVM’s powers

1. The CMVM may:

   a) Order the managing entity to suspend or exclude the securities when the mentioned entity has not done so in a timely manner;

   b) Extend the suspension or exclusion to all markets where securities of the same category are traded.

2. In the event of suspension or prohibition of trading of securities ordered simultaneously in Portugal and other Member States, the CMVM shall closely cooperate with the competent authorities of these Member States in order to ensure a level playing field among trading venues and protection of investors.

   (Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 209
Effects of the suspension and exclusion

1. The decision of suspension or exclusion produces immediate effects.

2. The suspension is maintained for the time strictly necessary for the regularisation of the situation that led to it.

3. The suspension from trading does not release the issuer from complying with the information duties to which it is subject.
4. If it does not hinder the urgency of the decision, the managing entity should notify the issuer to give an opinion as to the suspension or exclusion within the term fixed for same.

5. The final decision of suspension or exclusion is communicated to the CMVM, issuer and managing entity of other markets where the securities are traded or serve as underlying assets of derivative financial instruments.

**Article 210**

**Operations outside the market**

1. With the exception of sub-article 2 and the following Article, the provision of this Section is not applicable to securities operations carried out outside the markets registered with the CMVM.

2. The operations on securities admitted to trading in a regulated market, which are carried outside a regulated market, are communicated to the managing entity of the market where the securities are admitted to trading.

3. Whenever the protection of investors so justifies, the CMVM establishes, by regulation, the information duties of the financial intermediaries that carry out clients’ orders outside a regulated market, in the usual way, namely as regards the price conditions under which they intend to effect those operations.

*(Amended by Article 1 Decree-Law No. 66/2004 of 24 th March)*

**Article 211**

**Fees**

[Revoked]

*(Revoked by Article 3 of Decree-Law No. 183/2003 of 19th August)*

**Article 212**

**THE CMVM Regulations**

1. The CMVM will prepare the regulations necessary for the implementation of the provisions in this Title, namely as to the following matters:

   a) The process of registration of the managing entities, of the respective markets and their denomination;
b) Prudential rules to which market managing entities are subject;

c) Information to be rendered to the CMVM by the market managing entities;

d) Information to be rendered to the public by the market managing entities and issuers of securities admitted to trading, specifically in relation to the contents of the information, the means and the terms in which it has to be rendered or published;

e) Suspension and exclusion of securities from trading;

f) Publication of the commissions charged by market managing entities and the respective maximum limits;

g) The communication described in Article 210(2);

h) Limits to the assumption of responsibility by the managing entities of the markets where forward operations are carried out and limits to the positions that each investor, for itself or in association with others, may assume in forward operations.

2. In respect of regulated markets, following a proposal by or prior consultation with the operator of the market in question, the CMVM shall be responsible for determining, through regulation:

a) [Repealed.];

b) Rules for each type of transaction in the regulated market;

c) Rules as to offers;

d) Terms of the creation, control and extra-judicial execution of guarantees to be offered in forward operations;

e) Mandatory publications in the bulletin of the regulated market.

3. THE CMVM regulations do not prejudice the power conferred, by Article 201, on the managing entity for the preparation of market rules, within the limits of the law and the applicable regulations.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
CHAPTER II
Regulated markets

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

SECTION I
Regulated markets in general

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 213
Concept
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 214
Structure

1. Any market segments that may prove to be necessary may be created in each regulated market taking into account notably the characteristics of the transactions, the securities traded, the entities that issue them, the trading systems and the quantities to be traded.

2. On any regulated markets open to the public where cash operations may take place, it is mandatory to comply with the provisions relating to admission, prospectuses and the information contained in section IV of this chapter, and these markets shall form official listing prices.

3. In respect of the matters referred to in the preceding number, the CMVM shall lay down, through regulation, the minimum requirements applying to any regulated markets that do not form official listing prices and may:

   a) Reduce the requirements described in Article 227(2) (b) & (c), Article 228(1) and Article 229(1);

   b) Exempt the issuer from the obligation of providing information every six months;

   c) Dispense with the requirement for providing other information that, in accordance with the securities traded or the market recipients, is
not justified for the defence of investors and the transparency of the market.

4. Regulated markets that do not form official listing prices may be created notably to trade in:

a) Securities issued by small and medium-sized companies or involving the development of special projects;

b) Bonds with increased risk for investors;

c) Securities intended only for qualified investors.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 215**

*Agreements between regulated market operators*

1. Operators of regulated markets located or operating in Portugal shall agree on any mutual information or operational systems required for the proper operation of the markets managed by them and investors’ interests.

2. Operators of regulated markets located or operating in Portugal may enter into agreements with peer entities of other States, notably setting out:

   a) That in each of them securities admitted to trading in the other may be traded;

   b) That the members of each regulated market may operate in the other.

3. The agreements referred to in the preceding numbers shall be registered with the CMVM, and this registration may be denied, in the case of no. 2, if the regulated market located or operating in a foreign State does not impose requirements similar to those of the regulated market located or operating in Portugal as to the admission of securities to trading, disclosure of information to the public and other requirements for the protection of investors.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 216
Admission of members of a regulated market

1. Admission as a member of a regulated market and maintenance of this capacity shall be conditional upon, in addition to the requirements laid down in Article 203, compliance with the conditions set out by the regulated market operator as regards its organisation, the material resources required and the good standing and professional skills of the natural persons acting on its behalf.

2. A regulated market operator cannot limit the maximum number of its members.

3. Capacity as a member of a regulated market shall not be conditional upon ownership of any shareholding in its operating entity.

4. Members of a regulated market of another European Community Member State may become members of regulated markets located or operating in Portugal or have direct or indirect access thereto, as well as to the settlement systems available to their members.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 217
Functions of members of a regulated market

1. Members of a regulated market which perform merely trading functions may only be admitted after having entered into an agreement with one or more members which guarantee settlement of the operations traded by them.

2. Only members authorised to carry out transactions on their own behalf may be admitted as settlement members or participants in the settlement system used by the regulated market.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 218
Duties of members of a regulated market

1. In addition to observing the duties of the financial intermediation activity they carry out, members of regulated markets shall:
a) Comply with the decisions of the regulated market operator made within the scope of the legal and regulatory provisions applicable to the market in which they operate;

b) Provide the regulated market operator with any information necessary for the proper management of the markets, even if such information is subject to professional secrecy.

2. Each member of the regulated market shall appoint a member of its management board or a duly empowered representative to act as a direct contact before the regulated market operator and the CMVM.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 219**

**Regulated market sessions**

1. Regulated markets shall function in public sessions, which may be normal or special.

2. Normal regulated market sessions shall be held at the times and on the days determined by the regulated market operator for current trading in securities admitted to trading.

3. Special sessions shall be held as a result of a court decision or a decision of the regulated market operator, following a request by the interested parties.

4. Special sessions shall take place in accordance with the rules set out by the regulated market operator, and the transactions made therein may concern securities admitted or not admitted to trading in normal sessions.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Section II**

**Regulated market trades**

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 220**

**Trading systems**

1. Regulated market trades shall be carried out through trading systems managed by the regulated market operator.
2. The trading systems to be adopted should be appropriate as to the correct formation of the prices of the securities traded and market liquidity, guaranteeing the transparency of the operations and the conclusion of the greatest possible amount of trades.

3. Trading in securities admitted to trading directly between interested parties registered with the regulated market through one of its members may be treated as regulated market trades, in the terms of the rules approved by the regulated market operator.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 221

Offers

1. For the proper execution of regulated market orders accepted by them, members of a regulated market shall introduce such offers in the trading system, in the most appropriate form and at the most appropriate time.

2. The offers resulting from the exercise of activity for their own account or the execution of agreements of market making or price stabilisation may be subject to special rules concerning the disclosure of information, price variation and the conclusion of operations.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 222

Information on prices and amounts

1. The regulated market operator shall make available to the public the following information on the transactions carried out in each session:

   a) The price of each operation, immediately after its formation;

   b) The minimum price, the maximum price and a weighted average price, successively calculated during the session;

   c) The amount of securities traded;

   d) The reference price, referred in Article 225, calculated according to the terms of the market rules.
2. The CMVM may, by regulation, define the conditions in which, in exceptional situations, it is possible to postpone the release of the information referred in sub-article 1(a) & (c).

3. If the prices are not expressed in a currency legally recognised in Portugal, the information concerning the currency used should be clear.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 223**

**Publications of the regulated market operator**

The regulated market operator shall publish:

a) A bulletin on the days on which normal regulated market sessions take place;

b) Statistical information relating to the markets managed by it, without prejudice to the provisions on matters of confidentiality;

c) The text, updated each year, of the rules governing the regulated market operator, the markets managed by it and the transactions made in these markets.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Section III**

**Cash operations**

**Article 224**

**Concept**

Cash operations are those in which settlement occurs immediately after the trade or in a very short term thereafter, which does not exceed that required by the settlement system adopted.

**Article 225**

**Quotation**

1. When the law or an agreement refers to a listing price on a certain date, this shall mean the reference price on the regulated cash market.
2. If securities are admitted to trading on more than one regulated market, the price to be taken into account for the purposes of the preceding number shall be the price applied on the regulated market located or operating in Portugal considered as the most representative by the CMVM.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 226**  
**Patrimonial rights**

1. The patrimonial rights inherent in the securities sold belong to the buyer as from the date of the operation.

2. The buyer pays the seller, in addition to the price, interest and other income, corresponding to the time elapsed from the last maturity until the settlement date of the operation.

3. The provision of the previous sub-articles does not exclude a different system of attribution of the rights inherent in the traded securities, provided that such system is previously and clearly published in the terms set out in the market rules.

**Section IV**  
**Admission to trading on regulated cash markets**

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**SubSection I**  
**Requirements and consequences of the admission**

**Article 227**  
**General requirements**

1. Only securities whose contents and form of representation are in accordance with the law applicable to them and which have already been, overall, issued in harmony with the prevailing law of the issuer may be admitted to listing.

2. The issuer should comply with the following requirements:

   a) Has been constituted and is operating in accordance with its respective individual law;

   b) Has been carrying on business for at least three years;
c) Has published, as provided by law, its management reports and annual accounts for the three years prior to that in which it applies for admission;

d) Proves that it has a financial and economic situation compatible with the nature of the securities to be admitted and the market where the admission is applied for.

3. In the application for admission the following should be mentioned:

a) The means to be used by the issuer to provide information to the public;

b) The identification of the participant in a settlement system accepted by the managing entity through which it guarantees the payment of the equity rights inherent in the securities to be admitted and other amounts due.

4. If the issuer company has resulted from a merger or demerger, the requirements of sub-article 2 (b) & (c) are considered fulfilled if they may be met by one of the merged companies or by the demerger company.

5. The CMVM may dispense with the requirements of sub-article 2 (b) & (c) when the interests of the issuer and investors so advise and when the requirement of paragraph (d) allows, on its own, investors to make a clear assessment on the issuer and securities.

6. [Repealed.]

(Amended by Article 3 Decree-Law No. 107/2003 of 4th June)
(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 228

Admission of shares to listing

1. Shares may only be admitted to listing in relation to which:

a) An adequate level of dispersion amongst the public may be ascertained; and

b) The market capitalisation of the shares to be listed is foreseen to be, at least, one million euros, or, if it is not possible to determine the
market capitalisation, the net equity of the company, including the results of the last financial year, is at least one million euros.

2. It is considered that there is an adequate level of dispersion when the shares to be listed are dispersed amongst the public in a proportion of, at least, 25% of the share capital subscribed, represented by that category of shares or when, due to the high number of shares of the same category and the level of dispersion amongst the public, a regular functioning of the market is guaranteed with a lower proportion.

3. In the case of an admission request for shares of the same category of shares already listed, the adequacy of the dispersion amongst the public should be assessed in view of the total number of listed shares.

4. The provisions of sub-article 1 (b) do not apply to the admission of listing of shares of the same category as the shares already listed.

5. The market managing entity may require a market capitalisation above the one described in sub-article 1 (b) if there is another national regulated market, with regular functioning, recognised and open, in which the requirements for this purpose are the same as mentioned in said sub-article.

6. The issuer has the duty to apply for the admission of shares to be issued and which belong to the same category as those already listed, within 90 days from the issue.

7. The shares may be admitted to listing after the definitive registration of the company’s by-laws or the increase of capital at the register of companies, even if the respective publication has not been carried out.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 229
Admission of bonds to listing

1. Only bonds pertaining to a bond loan or any of its series whose amount is equal to or greater than € 200,000 may be admitted to listing.
2. The admission of bonds convertible into shares or with the right to subscription of shares depends on a previous or simultaneous admission of the shares to which they confer the right, or shares belonging to the same category.

3. The requirement of the previous sub-article may be dispensed by the authority competent for the admission, if such is permitted by the individual law of the issuer and the same demonstrates that the holders of the securities have the necessary information to make a reasonable assessment on the value of the shares into which the bonds are convertible.

4. The admission of bonds convertible into shares or with a right to subscribe shares already admitted to trading on a regulated market located or operating in a European Community Member State where the issuer has its registered office shall be conditional upon prior consultation with the authorities of the Member State concerned.

5. The provisions of Article 227(2) (b) (c) & (d) do not apply to the admission of bonds:

a) Representative of foreign or national public debt;

b) Issued by the Autonomous Regions and Portuguese Municipalities;

c) Issued by public institutes and Portuguese public funds;

d) Jointly and unconditionally guaranteed by the Portuguese State or a foreign State;

e) Issued by international companies of public character and international financial institutions.

6. The provisions of Article 227(2) (a) do not apply to the entities described in paragraphs a), b) and c) of the previous sub-article.

7. When considered necessary for the defence of investors, the CMVM may, by regulation, demand a rating for the entities that apply for the admission of bonds to listing.

8. In the admission to listing of bonds under the circumstances described in Article 227(6), the issuer is not required to include the auditor’s opinion in the accounting documents, except, when in the last annual accounts presented the auditor has concluded that it was
impossible to issue an opinion or issues an adverse opinion or an opinion with reserves.

(Amended by Article 3 Decree-Law No. 107/2003 of 4th June)
(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 230**

Admission of other securities

The admission to listing of other securities depends on the verification of requirements appropriate to the characteristics of the issuer, securities and investors to which they are intended, to be defined by regulation of the market managing entity.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

**Article 231**

Special provisions on the admission of securities subject to a foreign law

1. Except in cases in which securities are admitted to trading on a regulated market located or operating in a European Union Member State, the CMVM may require the issuer to submit a legal opinion attesting the requirements of no. 1 and paragraph a) of no. 2 of Article 227.

2. The admission of securities subject to the law of a Member State of the European Community may not be subordinated to a previous admission in a regulated market located or operating in this State.

3. When the law of the State governing the securities to be admitted does not permit their direct admission to a market located or operating outside that State, or the admission of these securities appears to be operationally difficult, certificates evidencing the registration or deposit of such securities may be admitted to trading on regulated markets located or operating in Portugal.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 232**

Consequences of the admission to listing

1. The admission of securities that have been the object of a public offer is only effective after the closure of the offer.
2. The admission to listing includes all securities of the same category.

SubSection II
Admission process

Article 233
Application for admission

1. The application for admission to trading, supported with the particulars required to evidence that the necessary requirements are fulfilled, shall be submitted to the regulated market operator on whose market the securities will be traded:

a) The issuer;

b) The holders of, at least, 10% of the issued securities, belonging to the same category, if the issuer is already a public company;

c) The Public Credit Management Institute, if it relates to bonds issued by the Portuguese State.

2. The regulated market operator shall send the CMVM a copy of the application for admission together with the documents necessary for approval of the prospectus.

3. The application for admission to listing may be submitted before all the necessary requirements have been met, provided that the issuer indicates how and when they will be met.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 234
Admission decision

1. The managing entity decides on the admission of securities to listing or their refusal up to 90 days after the submission of the application and the decision should be immediately notified to the petitioner.

2. The decision for admission to listing does not involve any guarantee concerning the contents of the information, the economic and financial situation of the issuer, its viability and the quality of the securities admitted.

3. The regulated market operator shall disclose its decision in respect of admission and notify it to the CMVM, identifying the securities
admitted, describing their characteristics and the way to access the prospectus.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 235**
**Refusal of admission**

1. The admission to listing may only be refused if:

a) The requirements as demanded by law, regulations or rules of the respective market are not fulfilled;

b) The issuer has not met the obligations to which he is subject in other markets, located or operating in Portugal or abroad, where the securities are listed.

c) It is not advisable to proceed with the admission, in the interests of investors and in view of the issuer’s situation.

2. The managing entity should notify the petitioner to amend the reparable defects within a reasonable period to be fixed.

3. Admission is considered as refused if the decision is not notified, to the petitioner, within 90 days following the admission application.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

**SubSection III**
**Prospectus**

**Article 236**
**Requirement**

1. Prior to admission of any securities to trading, the applicant shall disseminate, in the terms of Article 140, a prospectus approved:

   a) By the CMVM, in the case of admission of the securities referred to in no. 1 of Article 145;

   b) By the competent authority, following application of the criteria set out in nos. 2 and 3 of Article 145, all necessary changes being made.

2. A prospectus shall not be required for the admission of:
a) The securities referred to in paragraphs a), b), c), d), f), g), h), i), j) and l) of no. 1 of Article 111 and paragraph a) of no. 2 of Article 134, in the conditions contemplated therein;

b) Shares offered, allotted or to be allotted free of charge to existing shareholders, and dividends paid out in the form of shares of the same class as the shares in respect of which such dividends are paid, provided that the said shares are the same class as the shares already admitted to trading on the same regulated market and a document is made available containing information on the number and nature of the shares and the reasons for and details of the offer;

c) Securities offered, allotted or to be allotted to existing or former directors or employees by their employer or a company controlled by their employer which has securities already admitted to trading on a regulated market, provided that the said securities are the same class as the securities already admitted to trading on the same regulated market and a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer;

d) Shares representing, over a 12-month period, less than 10% of the number of shares of the same class already admitted to trading on the same regulated market;

e) Shares resulting from the conversion or exchange of other securities or from the exercise of rights conferred by other securities, provided that the said shares are of the same class as the shares already admitted to trading on the same regulated market;

f) Securities already admitted to trading on another regulated market, on the following conditions:

   i) That these securities, or securities of the same class, have been admitted to trading on that other regulated market for more than 18 months;

   ii) That, for securities admitted to trading on a regulated market for the first time, the admission to trading on the other regulated market was associated with the
dissemination of a prospectus in conformity with Article 140;

iii) That, except where the provisions of paragraph ii) above apply, for securities first admitted to trading after 30 June 1983, the prospectus was approved in accordance with the requirements of Directive no. 80/390/EEC of the Council of 27 March or Directive no. 2001/34/EC of the Council of 28 May.

iv) That the ongoing obligations for trading on the other regulated market have been fulfilled;

v) That the person seeking admission under this exemption makes a summary document available to the public in a language accepted by the CMVM;

vi) That the summary document referred to in paragraph v) above is made available to the public; and

vii) That the contents of the summary document shall comply with Article 135-A. Furthermore, the document shall state where the most recent prospectus can be obtained and where the financial information published by the issuer pursuant to his ongoing obligations of disclosure is available.

3. In the cases contemplated in paragraphs a), b), i) and j) of Article 111, the applicant is entitled to draw up a prospectus, which shall be subject to the provisions of this Code and any supplementary legislation.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 237

Mutual recognition and co-operation

[Repealed]

(Repealed by Article 12 Decree-Law No. 52/2006 of 15th March)
**Article 237-A**  
**Language**

1. The admission prospectus may be written, wholly or partially, in a language commonly used in international financial markets:

   a) If the securities to be admitted have a nominal value equal to or greater than € 50,000, or, in the case of securities without nominal value, if the initial value to be admitted is equal to or greater than that amount.

   b) If it has been prepared as part of an admission request to be submitted to the markets of different States;

   c) If the individual law of the issuer is a foreign law;

   d) If it is intended for a market or market segment that, by its characteristics, is only accessible to qualified investors.

2. The provisions of no. 2 of Article 163-A shall apply to the cases contemplated in paragraphs b) and c) of the preceding number.

3. The periodical information on the issuers of securities admitted to listing in the situations described in Article 163-A may be written in a language commonly used in international financial markets.

(Amended by Article 2 Decree-Law No. 66/2004 of 24th March)  
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 238**  
**Framework on the prospectus for admission**

1. Article 110-A, nos. 1 to 4 of Article 118, no. 3 of Article 134, Articles 135, 135-A, 135-B, 135-C, paragraphs a), c), e), f) and g) of Article 136 and Articles 136-A, 137, 139, 140, 141, 142, 145, 146 and 147 shall apply to the prospectus for admission of securities to trading on a regulated market, all necessary changes being made.

2. For prospectuses for admission to trading of non-equity securities having a denomination per unit of at least 50,000 euros on a regulated market it is not mandatory to submit a summary document.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 239
General criteria for exemption from the prospectus
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 240
Total or partial exemption from the prospectus
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 241
Partial exemption from the prospectus
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 242
Regulation
[Revoked]

(Revoked by Article 12 Decree-Law No. 52/2006 of 15th March)

Article 243
Liability for the contents of the prospectus

The provisions of Articles 149 to 154, with the necessary adaptations, together with the following specific conditions apply to the liability for the contents of the prospectus:

a) The individuals described in Article 149(1) (c) (d) (f) (h) are liable.

b) The right to indemnity should be exercised within the period of six months from the knowledge of the shortcoming in the prospectus or its amendment and termination, in any case, two years counting from the disclosure of the admission prospectus or the amendment that contains the defective information or forecast.
Section V
Information relating to securities admitted to listing

Article 244
General Rules

1. Issuers of securities admitted to trading on a regulated market shall submit to the CMVM and the regulated market operator the documents and information referred to in the following Articles by no later than their publication, if another time limit is not especially set out.

2. Issuers of securities simultaneously admitted to trading on a regulated market located or operating in Portugal and a regulated market located or operating in another European Community Member State shall provide the operator of the regulated market located or operating in Portugal and the CMVM with information equivalent to that which they are bound to provide to the markets and authorities of the other Member State.

3. Issuers of securities admitted to trading on a regulated market located or operating in Portugal and a regulated market located or operating in a non-European Community Member State shall provide the domestic regulated market and the CMVM, in addition to information equivalent to that referred to in no. 1, with any supplementary information which, being material to assess the securities, they are bound to provide to the markets and authorities of the other State.

4. In any of the cases described in the subsequent Articles, the CMVM may publish the required information at the expense of the entities that should provide them, when they refuse to follow the orders that, according to the law, are given to them.

5. Issuers of securities admitted to trading on a regulated market shall put and maintain on their website for one year any information they are bound to make public under this Code, its regulations and materially related legislation.
6. The information referred to in the preceding number must be accessible separately from non-mandatory information, notably of an advertising nature.

(Rectified by Rectification Declaration No. 23-F/99)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 245
Annual Report and Accounts

1. Issuers of securities admitted to trading on a regulated market shall publish, as soon as possible and no later than 30 days following their approval:

   a) The management report, the annual accounts, the legal certification of accounts and other accounting documents required by law or regulation;

   b) The report of an auditor registered with the CMVM.

2. The report described in sub-article (1) (b) includes:

   a) An opinion relating to progress forecasts of business and financial and economic situation mentioned in the documents to which sub-article (1)(a) refers;

   b) Details corresponding to the legal certification of accounts, if not required by another legal rule or prepared by an auditor registered with the CMVM.

3. The documents described in sub-article (1) are prepared on individual and consolidated basis, according to the requirements of law or regulation.

4. If the annual report does not provide an exact picture of the net assets, financial situation and results of the company, the CMVM may order the publication of supplementary information.

5. The documents that comprise the annual report and accounts shall be submitted to the CMVM and the regulated market operator as soon as they are made available to the shareholders.

(Rectified by Rectification Declaration No. 23-F/99)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 245-A
Annual information on corporate governance

1. Issuers of shares admitted to trading on a regulated market shall disclose, as a chapter of their annual management report specifically drawn up to this end or as an appendix, the following information on their corporate governance structure and practices:

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

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

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

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

e) The system of control of any employee share scheme where the voting rights are not exercised directly by the employees;

f) any restrictions on voting rights, such as limitations on the voting rights of holders of a given percentage or number of votes, deadlines for exercising voting rights, or systems whereby the financial rights attaching to securities are separated from the holding of securities;

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

h) The rules governing the appointment and replacement of board members and amendment of the articles of association;

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

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

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

m) Internal control and risk management systems implemented in the company.

2. Issuers of shares admitted to trading on a regulated market subject to Portuguese law as their personal law shall disclose information on their corporate governance structure and practices in the terms laid down in a regulation of the CMVM, which shall include the information required under the preceding number.

3. The board of issuers of shares admitted to trading on a regulated market subject to Portuguese law as their personal law shall annually submit to the shareholders’ meetings a report explaining the matters referred to in no. 1.

(Amended by Article 3 Decree-Law No. 219/2006 of 2nd November)

Article 246
Half-yearly information

1. The issuers of shares admitted to listing publish, up to three months from the end of the first six months of the financial year, information relating to the activity and results of that period, containing, at least, the following details:

a) The net turnover;

b) The results before and after taxes;

c) [Repealed.]
2. The information required in sub-article (1) contains the necessary details for the investors to reach a reasonable assessment as to the development of the activity and results of the company from the end of the previous financial year, as well as, if possible, the foreseeable developments of the financial year in course, in particular:

   a) Any specific factor that has influenced its activity and results;

   b) Comparison of the details presented with the corresponding figures of the previous financial year.

3. If the company is under the obligation of producing consolidated accounts, the information described in the previous sub-article is also published in a consolidated form.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 247**

**Regulation**

The CMVM establishes, by regulation:

   a) The form of the information described in the previous Articles when the issuers of securities admitted to listing are not companies;

   b) The documents to be presented in compliance with the provisions of Article 245(1) to (3) and Article 246(1);

   c) The necessary adaptations when the requirements of Article 246 (1) (a) & (b) are in disagreement with the company’s activity.

   d) The half-yearly information to be rendered when the first financial year of the companies that adopt an annual financial year different from the calendar year has duration greater than 12 months;

   e) The obligation to provide quarterly information, in the terms similar to those required in the previous Articles;

   f) The organisation, by the managing entities of markets, of information systems, accessible to the public, containing updated data relating to each of the issuers of securities admitted to listing;
g) The information duties for admission to listing of the securities described in Article 1(g);

h) The terms and conditions in which the information concerning the transactions contemplated in Article 248-B, notably the possibility of such communication being made in aggregate form in line with a certain amount and a specific time period, is to be communicated and made available;

i) Any information that must be made available through the issuer’s website contemplated in nos. 5 and 6 of Article 244.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 248**

**Inside information on issuers**

1. Any issuers which have securities admitted to trading on a regulated market or have requested their admission to such a market must promptly disclose:

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

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

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

3. Issuers shall ensure that the disclosure of inside information is synchronised as closely as possible among all categories of investors
and regulated markets in all European Union Member States in which those issuers have their securities admitted to trading or have requested such approval.

4. Without prejudice to possible criminal liability, any natural person or entity that holds information with the characteristics referred to in nos. 1 and 2 shall be prohibited from disclosing such information to any other person before the same is publicly disclosed, unless such disclosure is made in the normal course of the exercise of his employment, profession or duties.

5. The prohibition contemplated in the preceding number shall not apply to trading in own shares in "buy-back" programmes, provided such trading is carried out in accordance with the terms provided for under the law.

6. Issuers, or persons acting on their behalf or for their account, shall draw up and regularly update a list of those persons working for them, under an employment contract or otherwise, who have regular or occasional access to inside information, and shall inform these persons that their names have been included in the said list and of the legal consequences attaching to misuse or improper circulation of such information.

7. The list contemplated in the preceding number shall contain the identity of the persons, the reasons why such persons are on the list, the date on which the list of insiders was created and updated, and be kept by issuers for at least five years after being drawn up or updated and, further, be immediately sent to the CMVM whenever requested by the latter.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 248-A
Delayed disclosure of information

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

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

   b) Such delay is not likely to mislead the public;
c) The issuer demonstrates that the confidentiality of such information is ensured.

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

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

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

3. In the event that the financial viability of the issuer is in danger, although not within the scope of the applicable insolvency law, public disclosure of information may be delayed for a limited period where such public disclosure would seriously jeopardise the interests of existing and potential shareholders by undermining the conclusion of specific negotiations designed to ensure the financial recovery of the issuer.

4. In order to ensure the confidentiality of information whose disclosure is delayed and to prevent any misuse thereof, the issuer shall take at least the following measures:

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

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

   c) Has measures in place which allow immediate public disclosure in case of breach of confidentiality.
5. If an issuer or a person acting on its behalf or for its account transmits, in the normal course of their business, profession or duties, inside information to a third party not subject to a duty of secrecy, such information shall simultaneously be made public, if its communication was intentional, or immediately, if its communication was unintentional.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 248-B
Notification of transactions

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

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

   a) Its nature;
   b) The date;
   c) The place;
   d) The price;
   e) The amount;
   f) The issuer;
   g) The financial instrument in question;
   h) The reason for the responsibility to notify;
   i) The amount of shares in the issuer that the person discharging managerial responsibilities holds after the transaction.

3. For the purposes of the provisions of no. 1, a person discharging managerial responsibilities shall mean any person who is a member of
the management or supervisory bodies of the issuer and a senior executive who is not a member of the aforementioned bodies, having regular access to inside information and participating in decisions affecting the issuer’s management and negotiation strategy.

4. For the purposes of the provisions of no. 1, a person closely associated with a person discharging managerial responsibilities shall mean:

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

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

5. The provisions of the preceding numbers apply to persons discharging managerial duties within issuers having their registered office in Portugal or which, not having their registered office in a European Union Member State, are bound to provide the CMVM with information on their annual accounts.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

Article 248-C
Document consolidating annual information

1. Issuers of securities admitted to trading on regulated markets shall at least annually provide a document that contains or refers to all information that they have published or made available to the public over the preceding 12 months, in their capacity as issuers of securities admitted to trading.

2. The document referred to in the preceding number shall mention at least the information disclosed in compliance with duties of disclosure:

   a) Arising under this Code and any regulations of the CMVM;

   b) Arising under the Commercial Companies Code or the Commercial Registry Code;

3. The document referred to in no. 1 shall comply with Regulation no. 809/2004/EC, of the Commission, of 29 April.

4. This Article shall not apply to issuers of non-equity securities with a denomination per unit equal to or greater than 50,000 euros.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)

**Article 249**

**Other information**

1. Issuers of securities admitted to trading shall submit to the CMVM and the regulated market operator:

   a) Proposed amendments to the bylaws, until the date of the notice convening the competent body to approve the amendments;

   b) Extract of the minutes containing the resolution regarding the amendment of the by-laws, within 15 days following the resolution.

2. The issuers of securities admitted to listing should immediately inform the public of:

   a) Notices convening General Meetings of the holders of listed securities;

   b) Allocation and payment or exercise of any rights inherent in listed securities or shares to which these give right;

   c) Alteration of the rights of the bondholders that result, specifically, from amendment of the conditions of the loan or interest rate;

   d) Issue of other shares and other bonds, with an indication of their beneficial privileges and guarantees.

3. The CMVM may require, by regulation, which other essential information is provided so that securities' holders become aware of the
situation of these values and issuer and may exercise all their rights, namely:

a) Amendment of the details that have been required for the admission of securities to listing;

b) Acquisition of own shares.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 250**

**Exemption from disclosure of information**

1. The CMVM may exempt from disclosure of any information required under the preceding Articles when the disclosure of such information would be contrary to the public interest or seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for assessment of the securities.

2. The exemption is considered granted if the CMVM does not communicate any decision up to 15 days after the receipt of the application for exemption.

3. If the issuer is under the obligation of providing information on an individual and consolidated basis, the CMVM may dispense with the publication of that information which does not contain significant additional details.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 251**

**Civil Liability**

The provisions of Article 243 apply, with the necessary adaptations, to civil liability for the contents of information published by the issuers in accordance with the previous articles.
Section VI
Futures trading

Article 252
Admissibility

In addition to others contemplated in the CMVM’s regulations, the following forward transactions may be carried out on a regulated market: futures, options, repos and securities lending.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 253
Futures

Futures may consist:

a) In a forward buy and sell; or

b) In the transmission of forward contractual positions; or

c) In the delivery, on a stipulated date, of the difference between the fixed price in the contract and a future reference price.

Article 254
Options

Pursuant to the option contract, one of the parties acquires the right to, until the conclusion of the contract or exclusively on this date:

a) Receive or deliver the underlying assets; or

b) Transmit or assume a forward contractual position; or

c) Receive or deliver the difference between the fixed price and a future reference price.

Article 255
Repo

In repos carried out on a regulated market, it is permitted:

a) That the first sale is in cash or futures;
b) That the contract produces effects independently of the delivery of securities;

c) That securities for delivery in consequence of repurchase are not of the same class, but are fungible with the securities sold, in accordance with Article 204(3) or an express contractual clause.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 256
Securities lending

Securities lending transactions may be carried out on a regulated market, provided that:

a) The lender is a holder of the securities to be given on loan;

b) The delivery of the securities to the borrower is carried out in the time period established for the settlement of the cash operations;

c) The securities lent are returned to the lender through the regulated market.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 257
General contractual clauses

1. The forward operations are carried out in accordance with the terms of general contractual clauses, prepared by the managing entity, in which the object is standardised, including the quantity, as well as the term of the operation, the periodicity of the adjustment of profit and loss and the form of settlement.

2. The general contractual clauses described in the previous sub-article are subject to:

a) The registration with the CMVM; and

b) The approval by the CMVM, if the underlying assets are national or are securities not admitted to listing in a regulated market; and
c) The favourable opinion of the Bank of Portugal, if the underlying assets are instruments of the money and exchange markets.

**Article 258**

**Object**

1. The object of futures and options is based on the terms of the respective general contractual clauses and may have as underlying assets securities, of a real or notional nature, forward contractual positions, instruments of the money market, interest rates, currency or securities indices, on interest rates or currency.

2. Forward operations relating to commodities and services may be authorised according to the terms fixed by an administrative rule of the Minister of Finance and the Minister of the respective sector, preceding a report from the CMVM and the Bank of Portugal.

**Article 259**

**Counterpart**

1. The position of the central counterpart in futures and options is compulsorily taken by the managing entity or another entity accepted by it, which is duly authorised to exercise that function.

2. The entities to which the previous sub-article refers may assume the position of counterpart in the remaining forward operations.

**Article 260**

**Guarantee**

1. The carrying out of forward operations requires previous collateral being granted on behalf of the counterpart, except when, according to the nature of the operation, this obligation is dispensed with, in the cases and according to the terms established in the CMVM’s regulations.

2. Market members are responsible for the granting, reinforcement or substitution of the collateral.

3. The collateral may be provided by:
a) Securities pledge or repo of low risk and high liquidity securities, free of any liens, or cash deposit in an authorised institution;

b) Bank guarantee.

4. Other guarantees may not be given on values that have already been given as collateral.

5. Securities received as collateral may be sold extra-judicially, according to the terms to be defined in a the CMVM regulation, for the fulfilment of obligations arising out of collateral operations or as a consequence of the termination of the positions of the members that had provided the collateral.

6. In the case of commencement of a bankruptcy process, of composition with creditors or reparation of a member of the market, the collateral to which the previous sub-articles refer continue to guarantee the expired and non-expired obligations of operations carried out until the moment the process begins, only reverting to the bankruptcy or to the company in composition or reparation the balance that may remain after the closure of all positions.

7. The provisions of Article 283(3) are applicable.

Article 261
Management of operations

1. The central counterpart assures the good management of operations, in particular:

   a) The registration of positions;

   b) The management of guarantees granted, including granting, reinforcement, reduction and release;

   c) The adjustment of profits and losses arising from the registered operations.

2. When the defence of the market so requires, the counterpart may:

   a) Close positions;
b) Promote the transfer of positions to other members of the market.

3. The settlement members are responsible before the managing entity for the compliance of the remaining obligations of operations made by them, on their behalf or on behalf of a third party, as well as for the operations carried out by trading members before whom they have undertaken the function of settling the operations.

**Article 262**

**Closure of positions**

Positions in futures and options may be closed, before their respective term has elapsed, by the opening of inverted positions.

**Article 263**

**Suspension and exclusion of trading**

1. The circumstances in which the managing entity of the market should suspend or exclude trading in one certain category of standardised contracts are defined in the CMVM’s regulations.

2. The decision of suspension is immediately communicated to the CMVM and, by that entity, to the Bank of Portugal, if the contracts have instruments of the money and exchange market as reference.

3. The decision of exclusion should be preceded by communication to the CMVM, that informs the Bank of Portugal, when the contracts have as reference instruments of the money and exchange market.

**Article 264**

**Collateral of the market members**

1. The managing entity of the market may require, in addition to the guarantees to which Article 260 refers, that the market members provide collateral as guarantee of the duties to which they are subject and the operations in which they intervene, in accordance with the CMVM’s regulation.

2. The provisions of Article 260 (3) to (7) apply to the collateral to be provided in accordance with the previous sub-article.
Article 265
Management of transactions outside a regulated market

1. A regulated market operator may provide management and settlement services in respect of forward transactions, standardised or otherwise, carried out outside a regulated market. 2. The provisions of Articles 255 and 256 apply to the operations referred in the previous sub-article.

3. The provisions of Articles 259, 260 and 264, with due adaptations, apply if the managing entity assumes the position of counterpart in the operations to which sub-article 1 refers.

4. The application of the provisions of the previous sub-articles depends on the regulation approved by the CMVM, the Bank of Portugal being previously heard, when instruments of the money and exchange market are involved.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Title V
Settlement system

Chapter I
General provisions

Article 266
Scope

1. The securities settlement systems are created by written agreement which sets forth the common rules and standardised proceedings for the execution of transfer orders between the participants of securities or rights detached from these.

2. The agreement should be executed by three or more participants, apart from special participants.

3. The money transfers associated with the transfers of securities or rights inherent in them and collaterals related to securities operations are an integral part of the securities settlement systems.

Article 267
Participants

The following entities may be participants in a settlement system, regardless of being a member of its managing entity:

   a) Credit institutions, investment companies and institutions with corresponding functions authorised to operate in Portugal;

   b) Public entities and companies that benefit from State guarantees.

Article 268
Special participants

1. Also considered participants in settlement systems are:

   a) Clearing houses on which it is incumbent to calculate the net positions of the participants in the system;
b) Central counterparts acting as exclusive counterparts of the participants of the system, regarding transfer orders placed by these;

c) Settlement agents providing the participants and the central counterpart or only the latter with settlement accounts by which the transfer orders given within the system are carried out, and that may grant credit for settlement purposes.

2. The following entities may act as clearing houses:

   a) Credit institutions authorised to carry out this activity in Portugal;

   b) The managing entities of the regulated markets and settlement systems;

   c) Entities whose corporate purpose is the clearing of operations on commodities in derivatives markets, that are subject to capital and own funds requirements equivalent to those of the settlement system managing entities acting as central counterpart and that are authorised to that effect by a joint administrative rule of the Minister of Finance and the Minister of the sector of the underlying assets, after consulting the CMVM.

3. The following entities may act as central counterpart:

   a) Credit institutions authorised to carry out this activity in Portugal;

   b) Managing entities of a settlement system or a regulated market;

   c) The entities mentioned in paragraph c) of the previous sub-article.

4. The following entities may fulfil the functions of settlement agents:

   a) Credit institutions authorised to carry out this activity in Portugal;

   b) Securities centralised systems.
5. In accordance with the rules of the system, the same participant may only act as a central counterpart, a settlement agent or clearing house, or carry out these functions on a partial or total basis.

6. The Bank of Portugal may carry out the functions described in the previous sub-articles.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 269
Rules of the system

1. The organisation, functioning and operational proceedings relating to each settlement system consist of:

   a) The constitutive agreement and changes thereto approved by all the participants; and

   b) The rules approved by the managing entity.

2. The rules of the system will take effect as from their registration with the CMVM and are applicable to the managing entity and all participants.

3. The CMVM refuses the registration of rules of the system or imposes modifications whenever it considers them to be insufficient or contrary to the legal or regulatory provisions.

Article 270
Right to information

Any individual with a legitimate interest may request each participant described in Article 267 to inform about the settlement systems in which it participates and the essential rules of functioning of these systems.

Article 271
Recognition

1. Securities settlement systems, except for those managed by the Bank of Portugal, are recognised by registration with the CMVM.

2. The CMVM is the competent authority to notify the European Commission of the systems it recognises of which it will give notice to the Bank of Portugal.
3. The Bank of Portugal, by notice, designates the securities settlement systems that are managed by it, notifying the European Commission of this designation and informing the CMVM.

**Article 272**

**Registration**

1. Only those settlement systems that satisfy, cumulatively, the following requirements may be registered with the CMVM:

   a) That has, at least, one participant with effective headquarters in Portugal;

   b) Whose managing entity, when it exists, has effective headquarters in Portugal;

   c) To which Portuguese law applies in accordance with an express clause of the respective constitutive agreement;

   d) Have adopted rules compatible with this Code, the CMVM’s regulations and the Bank of Portugal.

2. The following updated information is required upon registration:

   a) The participants' agreement;

   b) The identification of the participants in the system;

   c) Identification data of the managing entity, when existing, including the respective bylaws and the identification of the members of the company’s governing bodies and the holders of qualifying holdings;

   d) The rules approved by the managing entity.

3. The provisions regarding the registration of the markets managing entities are also applicable, with the due adaptations, to the registration process, including its refusal and cancellation.

**Article 273**

**Regulation**

1. The CMVM prepares the necessary regulations in order to achieve the following objectives:
a) Recognition and registration of the settlement systems;

b) Security rules to be adopted by the system;

c) Collateral to be provided in favour of the central counterpart;

d) Management, prudential and accountancy rules, necessary to guarantee asset separation.

2. In respect of systems used to settle regulated market trades, following a proposal by or after having heard the operator of the systems in question, the CMVM shall define or materialise, through regulation:

   a) The periods in which the settlement should take effect;

   b) The proceedings to be adopted in case of non-compliance by the participants;

   c) The order of operations to be cleared and settled;

   d) The registration of operations carried out by the system and their accounting.

3. The Bank of Portugal regulates the systems managed by it.

(Rectified by Rectification Declaration No. 23-F/99)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Chapter II
Operations

Section I
General provisions

Article 274
Transfer orders

1. Transfer orders are introduced into the system by the participants, or by delegation, by the market managing entity where the securities were traded.

2. Transfer orders are irrevocable, produce effects between participants and are valid before third parties from the time in which they are introduced into the system.
3. The time and the form of introduction of the orders into the system are determined in accordance with the rules of the system.

**Article 275**

**Forms of execution**

The execution of the transfer orders consists of making available to the beneficiary, in an account opened with a settlement agent:

a) The gross amount indicated in each of the transfer orders, or

b) The net balance obtained by bilateral or multilateral clearing.

*Rectified by Rectification Declaration No. 23-F/99*

**Article 276**

**Clearing**

Clearing carried out by the settlement system is definitive and carried out by the system itself or by a clearing house participating in the system.

**Article 277**

**Invalidity of underlying trades**

The invalidity or inefficiency of legal acts underlying transfer orders and cleared obligations does not affect the irrevocability of the orders nor definitive character of the clearing.

**Section II**

**Settlement of regulated market trades**

*Amended by Article 2 Decree-Law No. 52/2006 of 15th March*

**Article 278**

**Principles**

1. The settlement of regulated market trades shall be organised in accordance with principles of efficiency, reduction of the systemic risk and simultaneous delivery and payment of securities.

2. Regulated cash market trades shall be settled daily as soon as possible after being carried out.

*Amended by Article 2 Decree-Law No. 52/2006 of 15th March*
Article 279
Obligations of the participants

1. The participants make available to the settlement system, in the period indicated in the rules of the system, the securities or the money necessary for the good settlement of the operations.

2. The obligation described in the previous sub-article falls upon the participant that introduced the transfer order in the system or that has been indicated by the managing entity of the market where the operations to be settled were carried out.

3. The participant indicated for the settlement of an operation may, in its turn, indicate another participant in the system to perform it, but is not released from the obligation if the other participant refuses the indication.

4. The refusal of the indication is ineffective if it is excluded by a contract executed between the participants and disclosed to the system.

Article 280
Non-compliance

1. The non-compliance of the obligations described in the previous Article, during the specified period, constitutes a definitive breach.

2. Once the breach is verified, the managing entity of the system should immediately set in motion the necessary proceedings of substitution to assure the good settlement of the operation.

3. The procedures of substitution are described in the rules of the system, and should set out, at least, the following:

   a) Lending of securities to be settled;

   b) Repurchase of undelivered securities;

   c) Resale of securities that have not been paid for.

4. The existence of the procedures of substitution mentioned in paragraphs a) and c) of the previous sub-article is not obligatory in the cases where there is a central counterpart.
5. The procedures of substitution are not set in motion when the creditor declares, in a timely manner, that it is no longer interested in the settlement, except when otherwise determined by a rule approved by the managing entity of the system.

6. The rules mentioned in the previous sub-article assure that the procedures of substitution adopted will make it possible to deliver the securities to the creditor within a reasonable period of time regarding the one specified in the rules applicable to the settlement system.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 281
Connection with other systems and institutions

1. Systems used to settle regulated market trades shall provide for any links necessary for their proper settlement, creating a network notably with:

   a) The operators of the regulated markets on which the transactions to be settled are carried out;

   b) Centralised securities systems;

   c) The Bank of Portugal or credit institutions, if the managing entity of the system is not authorised to receive deposits in cash;

   d) Other settlement systems;

2. The connection agreements are registered with the CMVM.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 282
Civil liability

Except in the case of unavoidable and unforeseen circumstances, each of the participants is liable for the damages caused by the breach of its obligations, including the cost of the substitution procedures.
Chapter III
Insolvency of the participants

Article 283
Transfer and clearing orders

1. The opening of bankruptcy proceedings, composition with creditors or reparation of any participant does not have retroactive effects on the rights and obligations resulting from its participation in the system or related to it.

2. The opening of the proceedings described in the previous sub-article does not affect the irrevocability of the transfer orders nor their validity against third parties nor the definitive character of clearing, provided that the orders had been introduced into the system:

   a) Before the opening of such proceedings; or
   
   b) Following the opening of the proceedings, if the orders have been executed the day that they were introduced and if the clearing house, the settlement agent or the central counterpart prove that they did not have, nor should have, knowledge of the opening of the proceedings.

3. The time of commencement of the proceedings to which the present Chapter refers is that in which the competent authority pronounces the decision of the declaration of bankruptcy, pursuit of the action of recovery of the company or an equivalent decision.

Article 284
Collateral

1. The collateral of obligations arising from the functioning of a settlement system are not affected by the commencement of bankruptcy proceedings, recovery of the company or reparation of the guarantor entity, only the balance that remains after the performance of the collateral obligations reverting to the bankrupt estate or the company in recovery or reparation.

2. The provisions of the previous sub-article apply to the collateral provided to central banks of the Member States of the European Community and the European Central Bank, acting as such.
3. For the purposes of the present Article, pledge and rights deriving from repo and other similar contracts are deemed to be collateral.

4. If the securities provided as collateral, in terms of the present Article, are registered or deposited with a centralised system located or operating in a Member State of the European Community, the determination of the rights of the beneficiaries of the collateral is governed by the legislation of that Member State, provided that the collateral has been registered with the same centralised system.

**Article 285**

**Applicable law**

With the commencement of proceedings of bankruptcy, recovery of a company or reparation of a participant, the rights and the obligations of this participation or associated to it are governed by the law applicable to the system.

**Article 286**

**Notifications**

1. The decision to commence proceedings of bankruptcy or recovery of a company or participant is immediately notified to the CMVM and the Bank of Portugal by the court or administrative authority making the decision.

2. The CMVM or the Bank of Portugal, pertaining to systems managed by them, immediately notifies the remaining Members States of the European Community of the decision described in sub-article 1.

3. The CMVM is the competent authority to receive the notification of the decisions, described in sub-article 1, when made by a judicial or administrative authority of another Member State of the European Community.

4. The CMVM and the Bank of Portugal immediately notify the managing entities of the settlement systems registered with them, of the decisions described in sub-article 1, and any notice received from a foreign state relating to the bankruptcy of a participant.
Chapter IV
Management

Article 287
System

1. Systems used to settle regulated market trades can only be managed by a company meeting the requirements laid down in special legislation.

2. The remaining settlement systems, with the exception of those managed by the Bank of Portugal, may also be managed by the participants collectively.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 288
Civil liability

1. According to the terms of Article 94, the managing entity of the settlement system is answerable to the participants in the same way as the managing entity of a centralised system of securities is answerable to financial intermediaries.

2. If the system is managed directly by the participants, they are answerable jointly and severally for the damages that the managing entity would be responsible.
Title VI
Intermediation
(Rectified by Rectification Declaration No. 23-F/99)

Chapter I
General provisions

Section I
Activities

Article 289
Notion

1. Financial intermediation activities are:
   a) Securities investment services;
   b) Ancillary services of investment services;
   c) Management of collective investment undertakings and exercise of the functions of depository of the securities integrating the assets of such institutions.

2. Only financial intermediaries are allowed to perform, on a professional basis, financial intermediation activities.

3. The provision of the present Title is not applicable to the European Central Bank and central banks of the Members States of the European Community nor the activities developed by the State and other public entities within the scope of the management of the public debt and reserves of the State.

Article 290
Investment services

1. Investment services in securities are:
   a) Reception and transmission of orders on a third party's behalf;
   b) Execution of orders on a third party's behalf;
c) Management of portfolios on a third party's behalf;

d) Placement of public offers of distribution of securities.

2. Trading of securities on own account is considered an investment service when undertaken by a financial intermediary.

3. Mediation in securities transactions is considered equivalent to the service of reception and transmission of orders on a third party's behalf.

**Article 291**
Ancillary services

Ancillary services of investment services are:

a) Registration and deposit of securities;

b) Concession of credit, including the lending of securities, for carrying out securities operations in which the entity granting the credit intervenes;

c) Investment securities advice;

d) Advice on capital structure, industrial strategy and related areas, as well as mergers and acquisitions;

e) Assistance relating to public offer of securities;

f) Foreign exchange services and rental of safety deposit boxes linked to the rendering of investment services.

**Article 292**
Advertising, promotion and prospecting of investors

Advertising, promotion and prospecting of investors directed at the execution of intermediation contracts or the collection of information as to current or potential clients are included in the intermediation activity to which they refer, and may only be carried out by financial intermediaries authorised to develop this activity.

**Article 293**
Financial Intermediaries

1. Financial Intermediaries are:
a) Credit institutions and investment firms authorised to exercise financial intermediation activities in Portugal;

b) Managing entities of collective investment undertakings authorised to exercise this activity in Portugal;

c) Entities with functions correspondent to those described in the previous paragraphs that are authorised to exercise any financial intermediation activities in Portugal.

2. Securities investment firms are:

   a) Broker companies;
   
   b) Broker-dealer companies;
   
   c) Asset managing companies;
   
   d) Others similarly qualified by law or that, not being credit institutions, are authorised to render any of the securities investment services as their core and professional activity.

   Article 294
   Investment advisory services

1. Securities investment advisory services, on an individual basis, may be provided by:

   a) Financial intermediary authorised to exercise this activity, among others;
   
   b) By independent investment advisers devoted exclusively to this activity.

2. Advice given within the professional activity of individuals not mentioned in the previous sub-article, provided that it is a normal and necessary complement to their activities, is not deemed to be investment advisory services.

3. The general rules set out for financial intermediation activities, with the due adaptations, apply to independent investment advisers.
Section II
Register

Article 295
Qualification requirements

1. The professional performance of any financial intermediation activity depends on:

   a) Authorisation to be granted by the competent authority;

   b) Prior registration with the CMVM.

2. The CMVM organises a list of the credit institutions and investment firms that carry out independent financial intermediation activities in Portugal.

Article 296
Function of the registration

The registration with the CMVM has the function of assuring the prior control of the requirements for the exercise of each financial intermediation activity and permitting the organisation of supervision.

Article 297
Information to be registered

1. The registration of financial intermediaries contains:

   a) The details described in Article 66 of the General System of Financial Institutions and Financial Companies, in relation to financial intermediaries based in Portugal; or

   b) The details described in Article 67 of the General System of Financial Institutions and Financial Companies, relating to the branches of a credit institution or investment firm with headquarters abroad; and

   c) Each of the financial intermediation activities that the financial intermediary intends to carry out; and

   d) The identification of the financial intermediary representatives and individuals that effectively manage and control each of the registered activities.
2. Penalties and extraordinary measures imposed on the financial intermediary and other individuals, as well as the suspension or cancellation of the registration, are registered.

**Article 298**

**Registration procedure**

1. The registration application should:
   
   a) Mention the information and be accompanied by the necessary documents for registration;
   
   b) Be accompanied by the necessary documents showing that the financial intermediary has the human, material and technical resources essential for the performance of the activity.

2. The CMVM may verify, by inspection, the existence of the resources described in paragraph b) of the previous sub-article.

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

4. The presentation of documents that already are in the CMVM's possession or that this entity may obtain in official publications or within the national authority that granted the authorisation or to whom the authorisation was communicated is not required.

5. The shortcomings and irregularities verified in the application or documentation may be resolved in the period established by the CMVM.

**Article 299**

**Tacit grant**

Registration is deemed to be granted if the CMVM does not refuse it within a period of 60 days as from:

   a) The communication of the authorisation; and

   b) The date of the reception of the request or supplementary information that has been requested.
Article 300
Refusal of initial or subsequent registration

1. The initial and subsequent registration is refused if the financial intermediary:

a) Is not authorised to perform the financial intermediation activity to be registered;

b) Does not appear to possess the ability and essential resources to guarantee the efficient and secure performance of the activities;

c) Has made false statements;

d) Does not remedy shortcomings and irregularities in the procedures within the time period established by the CMVM.

2. The refusal of the initial registration or subsequent registrations may be total or partial.

Article 301
Independent investment advisers

1. The independent performance of securities independent advisory activities depends on the CMVM’s authorisation.

2. The authorisation is granted only to those reputable individuals that have the appropriate professional competency for the performance of the activity and sufficient material resources.

3. The registration is officially made by the CMVM after the authorisation is granted and sets out the information corresponding to those described in Article 297(1) (a).

Article 302
Suspension of the registration

When the financial intermediary does not satisfy those essential resources to guarantee the rendering of any financial intermediation activities efficiently and securely, the CMVM may suspend the registration for a period not longer than 60 days.
Article 303
Cancellation of the registration

1. Grounds for cancellation of the registration by the CMVM are:
   
a) The verification of circumstances that would impede the registration, if said circumstances has not been remedied within the period established by the CMVM;

   b) The revocation or the forfeiture of the authorisation;

   c) The termination of the activity or the non-conformity between the object and the activity effectively performed.

2. The decision of cancellation should be preceded by a favourable opinion from the Bank of Portugal.

Section III
Pursuit of activity

Article 304
Principles

1. Financial intermediaries should conduct their activity so as to protect the legal interests of their clients and efficiency of the market.

2. In their relations with all the intermediaries in the market, financial intermediaries should observe the rule of good faith, in accordance with high standards of diligence, loyalty and transparency.

3. To the extent necessary for the performance of its duties, the financial intermediary should keep himself informed of the financial situation of its clients, their experience in investment matters and the objectives they seek through the services provided.

4. Financial intermediaries shall be subject to a duty of professional secrecy in the terms set out for bank secrecy, without prejudice to the exceptions contemplated in the law, notably compliance with the provisions of Article 382.

5. The principles and the duties described in the following articles are applicable to the members of the board of directors of the financial
intermediary and individuals that effectively manage and supervise each of the financial intermediation activities.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 305**
**Professional competency and organisation**

1. In the performance of its activity, the financial intermediary should guarantee high levels of professional competency.

2. The financial intermediary should keep its business organisation equipped with the necessary human, material and technical resources so as to render services under the required conditions of quality and efficiency, and thereby avoid incorrect or negligent procedures.

**Article 306**
**Separation of assets**

1. In all acts performed, as well as in accounting and operations records, the financial intermediary should maintain a clear distinction between its assets and the assets of each one of its clients.

2. The opening of bankruptcy proceedings, recuperation of a company or restructuring of the financial intermediary does not affect the acts performed by the financial intermediary on behalf of its clients.

3. The financial intermediary, on its behalf or on behalf of third parties, may not make use of the securities pertaining to its clients or exercise the rights inherent in them, except by written agreement of the holders.

4. The money received from the clients or on their behalf should be deposited in a bank account opened in the name of the beneficiary or in the name of the financial intermediary and should be clearly indicated so as to permit distinction from its own account.

5. Investment firms may not use on their behalf or on behalf of third parties the money deposited in the accounts described in the previous sub-article nor the respective earnings.
Article 307
Accounting and records of operations

1. The financial intermediary’s accounting records should reflect daily, in relation to each client, the credit or debit balance of cash and securities.

2. The financial intermediary keeps a daily register of the operations carried out by itself, on own account and the account of each one of the clients.

Article 308
Safekeeping of documents

1. Without prejudice to more restrictive legal or regulatory requirements, the financial intermediaries should archive the documents and registers relating to securities operations undertaken within or out of the market, for at least five years.

2. At the request of competent authorities or clients, the financial intermediaries should issue certificates of the respective registers of the operations in which they participated.

Article 309
Conflicts of interest

1. The financial intermediary should organise itself and act so as to avoid or reduce to a minimum the risk of conflicts of interest.

2. In a situation of conflicts of interest, the financial intermediary should act so as to assure its clients of transparent and equal treatment.

3. The financial intermediary should give preference to clients interests, be it with regard to its own interests or companies with which it has a control or group relationship, as well as with regard to the interests of its directors and employees.

4. Whenever the financial intermediary executes operations pursuant to clients’ orders, it should make the securities available to them at the same price at which same were acquired.
Article 310
Excessive intermediation (churning)

1. The financial intermediary should refrain from encouraging his clients to engage in repeated securities operations or doing the same on clients account, when such operations have as principal purpose the charging of commissions or other objectives foreign to the interests of the client.

2. In the operations described in the previous sub-article are included the concession of credit for carrying out operations.

3. In addition to civil liability and administrative offence that may be applicable to the operations described in the previous sub-articles, no commissions, interest and other fees are due.

Article 311
Protection of the market

1. The financial intermediaries and market members described in Article 203(3) should behave with the utmost business integrity, abstaining from participating in operations or practising acts susceptible of placing at risk the regularity of the functioning, transparency and credibility of the market.

2. Especially susceptible to placing at risk the regularity of the functioning, transparency and credibility of the market are:

   a) The carrying out of operations allocated to the same portfolio whether for purchase or sale;

   b) The apparent, simulated or artificial transfer of securities between different portfolios;

   c) The execution of orders destined to defraud or significantly restrict the effects of auction, apportionment or other form of securities allocation;

   d) The performance of market-making transactions not registered with the CMVM or price stabilisation transactions not carried out in the terms permitted under the law.

3 – The entities referred to in no. 1 shall further carefully and
diligently examine orders and transactions, particularly when the same are likely to lead to the following situations:

a) Execution of orders to trade or transactions undertaken by persons with a significant buying or selling position in a financial instrument or that represent a significant proportion of the daily volume of transactions in the relevant financial instrument and which, as result thereof, are likely to lead to significant changes in the price of the financial instrument or related derivative or underlying asset;

b) Execution of orders to trade or transactions undertaken concentrated within a short time span in the trading session which are likely to lead to significant changes in the price of the financial instrument or related derivative or underlying asset and which are subsequently reversed;

c) Execution of orders to trade or transactions undertaken at or around a sensitive time when reference prices, settlement prices or other prices calculated at times determinant for valuation are calculated and which are likely have an effect on such prices and valuations;

d) Execution of orders to trade which alter the normal characteristics of the order book for a certain financial instrument and which are cancelled before they are executed;

e) Execution of orders to trade or transactions undertaken preceded or followed by dissemination of false, incomplete, exaggerated, biased or misleading information by the economic beneficiaries of the transactions or persons linked to;

f) Execution of orders to trade or transactions undertaken preceded or followed by the production or dissemination of research or investment recommendations containing false, incomplete, exaggerated, biased or misleading information, or information demonstrably influenced by material interest when the persons that have given such orders or undertaken such transactions, or any persons linked to them, have participated in the production or dissemination of such research or investment recommendations.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
Article 312
Information duties

1. The financial intermediary should provide, in relation to the services that it offers or are requested from it or it effectively renders, all the necessary information to reach a clear and reasoned decision, including, in particular, the following:

   a) Special risks involved in the operations to be executed;

   b) Any interest that the financial intermediary or individuals that act in its name may have in the service rendered or to be rendered;

   c) The existence or non-existence of any sinking fund or equivalent protection relating to the services to be rendered;

   d) The cost of the service to be rendered.

2. The less the degree of knowledge and experience of the client, the greater the extent and depth of the information to be provided.

3. The insertion of informative details in the rendering of advice, under any Title, or in a promotional or advertising message does not exempt the financial intermediary from the observance of the requirements and rules applicable to information in general.

Article 313
Information to the market managing entities and the CMVM

1. Financial intermediaries, with headquarters in national territory, declare to managing entities of the regulated markets those operations that have as their objective the following financial instruments, when negotiated in a regulated market located or operating in a Member State of the European Community:

   a) Shares and securities with subscription or acquisition rights;

   b) Bonds;

   c) Standard forward contracts relating to shares;

   d) Standard options relating to shares.
2. The declaration, to which the previous sub-article refers, should contain, in addition to the identification of the financial intermediary that carried out the operation, the type, quantity and price of the financial instruments negotiated, as well as the day and time of the operation.

3. The declaration is made immediately after the operation is carried out, in writing, and, according to the nature of the operation, should be made to the managing entity of the cash or forward regulated market.

4. When the trading system makes the registration of the operations, the declaration is considered to have been made at this time and by this registration.

5. The managing entities of the regulated markets assure the resources so that the CMVM may immediately have the submitted information.

6. The declaration, to which the present article refers to, is dispensed with, if the operations to be communicated are carried out in a regulated market located or operating in another Member State of the European Community which imposes the same obligation of communication, except if regarding securities traded in a regulated market located or operating in Portugal.

7. The companies authorised to perform financial intermediation activities in Portugal and the holders of qualifying holdings in these companies are subject to the duty of information on qualifying holdings according to the terms of Articles 102, 104, 105, 107, 108 and 110 of the General Legal Framework of Credit Institutions and Financial Companies, with the following adaptations:

   a) The communications submitted to the Bank of Portugal should also be made to the CMVM;

   b) The CMVM should disclose, at least annually, a list with the identity of the holders of qualifying holdings.

   **Article 314**
   **Civil liability**

1. The financial intermediaries should indemnify those damages caused to any individual in consequence of the violation of duties,
relating to the performance of its activity, which were imposed by law or regulations of a public authority.

2. The fault of the financial intermediary is presumed when the damage caused is within the scope of contractual or pre-contractual relations and, in any event, when originated by the violation of the information duties.

Article 315
Codes of conduct

The codes of conduct to be approved by professional financial intermediaries associations are registered at the CMVM.

Article 316
Rules of procedure

1. Each financial intermediary prepares rules of procedure, wherein the rules of conduct are established, which are to be followed by officials of its agencies and employees, as well as the appropriate organisational measures for the compliance with the law or the CMVM’s regulations.

2. Such rules of procedure are registered with the CMVM.

Article 317
Auditors’ duty to report

1. The auditors, who render services to a financial intermediary or company within a control or group relationship with the financial intermediary, should immediately report to the CMVM facts relating to the financial intermediary of which it has knowledge in the pursuit of its functions, when such facts are susceptible of:

   a) Constituting a crime or administrative offence set out by a legal rule or regulation which establishes the conditions of authorisation or regulating, in a specific manner, financial intermediation activities; or

   b) Affecting the continuity of the performance of financial intermediation activities; or

   c) Justifying the refusal of the certification of accounts or the issue of reserves.
2. The duty to communicate imposed by the present Article prevails over any restrictions to information disclosure, legally or contractually established, and its compliance in good faith does not result in any responsibility to those who comply with it.

3. If the facts referred to in no. 1 constitute inside information in the terms of Article 248, the CMVM and the Bank of Portugal shall coordinate their actions with a view to an appropriate combination of the supervisory goals pursued by each of these authorities.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section IV
Regulation

Article 318
Financial intermediation organisation

The CMVM creates the regulations necessary to establish the provisions of the present Section on financial intermediary organisation, particularly, as regards the following:

a) Registration of financial intermediation activities;

b) Listing of people that, acting on behalf of the financial intermediary, are subject to accreditation and terms in which this is attributed;

c) Requirements relating to human, material and technical resources demanded for the rendering of each of the financial intermediation activities;

d) Registration of operations and rendering of information to the CMVM, taking into account the control and supervision of various activities;

e) Organisation measures to be adopted by the financial intermediary that carries out more than one financial intermediation activity, taking into account its nature, dimension and risk;

f) Functions that should be the object of segregation, in particular those that, being managed or effected by the same
individual, might originate errors difficult to detect or present an excessive risk to the financial intermediary or its clients;

g) Minimum contents of the rules of procedure of the financial intermediaries.

**Article 319**

**Financial intermediation activities**

The CMVM creates the regulations necessary to substantiate the provisions of the present Section on the performance of financial intermediation activities, particularly, the following:

a) Opening, movement, utilisation and control of deposit accounts of the money provided to investment firms by their clients or by third parties on their behalf;

b) Disclosure of the commissions charged for the rendering of different services;

c) Limits and requirements for the subcontracting of financial intermediation activities;

d) Limits and requirements for the prospecting of investors;

e) Information to be provided on services involving non-apparent risks to non-qualified investors;

f) Terms under which the managing entities of regulated markets should make available to the CMVM the information mentioned in Article 313.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 320**

**Independent investment advisers**

The CMVM prepares regulations necessary for the implementation of the provisions of the present Section on the performance of independent investment advisory activity, particularly, the following:

a) Details required proving the necessary requirements for the performance of the activity to be authorised;

b) Details subject to registration;
c) The time period and contents of the information to be rendered by the independent investment advisers to the CMVM about the securities acquired by them.

Chapter II
Intermediation contracts

Section I
General rules

Article 321

Agreements with non-qualified investors

1. In agreements that must be executed in writing entered into with non-qualified investors, only such non-qualified investors may allege the nullity resulting from the written form having not been observed.

2. For the purposes of implementation of the framework on general contractual clauses, non-qualified investors shall be treated as consumers.

3. In intermediation contracts entered into with non-qualified investors resident in Portugal to execute transactions in Portugal, the application of the competent law cannot result in depriving the investor of the protection assured under the provisions of this chapter and Section III of Chapter I as to information, conflict of interests and segregation of assets.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 322

Contracts executed outside the establishment of the financial intermediary

1. Orders to trade and portfolio management agreements issued or closed by a non-qualified investor outside the offices of a financial intermediary, without there being a prior client relationship with such financial intermediary and without the investor having solicited such orders or agreements, shall only become effective three working days after issue of the order or execution of the contract by the investor.

2. Within this period, the investor may submit a retraction to the financial intermediary.
3. Previous client relations exist when:
   
   a) There is a portfolio management contract between the financial intermediary and the investor; or
   
   b) The financial intermediary frequently receives orders issued by the investor; or
   
   c) The financial intermediary has the duty to register or deposit securities belonging to the investor.

4. It is presumed that the contract executed by the financial intermediary has not been solicited when there is no previous client relation between the financial intermediary and the investor.

5. Independent advisers shall not contact non-qualified investors, except when solicited by them.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 323**

**Information duties**

In addition to the obligations mentioned in Article 312, the financial intermediary should inform clients who have executed contracts on the following:

   a) The execution and results of the operations carried out in their names;

   b) The occurrence of special difficulties or unfeasibility of the execution of the operation;

   c) Any known facts or circumstances not subject to professional secrecy that may justify the amendment or the revocation of orders or instructions given by the client.

**Article 324**

**Contractual responsibility**

1. Any clauses excluding the responsibility of the financial intermediary for acts performed by its representative or agent are deemed void.

2. Except for fraud or serious misconduct, the responsibility of the financial intermediary for business transactions it has influenced,
prescribes two years from the date on which the client became aware of the conclusion of the business transaction and respective terms.

Section II
Orders

Article 325
Reception

As soon as an order is received for the execution of a securities operation, the financial intermediaries should:

a) Verify the legitimacy of the entity placing the order;

b) Adopt the necessary measures that allow, without any doubt, the establishment of the time of receipt of the order.

Article 326
Acceptance and refusal

1. The financial intermediary should refuse an order when:

a) The entity placing the order does not provide all the necessary information for good execution;

b) It is evident that the operation is contrary to the intentions of the entity placing the order, unless the entity confirms the order in writing;

c) The financial intermediary is not in a position to supply the entity placing the order all the information for execution of the order;

d) The entity placing the order does not give the guarantee required by law for carrying out the operation;

e) The entity placing the order is not allowed to accept a public offer.

2. The financial intermediary may refuse to accept an order when the entity placing the order:

a) Does not prove the availability of the securities to be sold;
b) Did not block the securities to be sold, when requested by the financial intermediary;

c) Does not make available the amount necessary for the settlement of the operation;

d) Does not confirm the order in writing, if requested.

3. Except in the cases described in the previous sub-articles, the financial intermediary may not refuse an order placed by an individual with whom it had a previous client relationship.

4. The refusal to accept an order should be immediately transmitted to the entity placing the order.

5. The acceptance of orders for credit operations is preceded by the execution of a contract in written form with the entity placing the order, according to the terms of the general clauses for this effect established by the managing entity of the respective market and registered with the CMVM.

**Article 327**

**Form**

1. Orders may be given orally or in writing; if given orally they should be reduced to writing or tape recorded by the receiver.

2. The orders of acceptance and revocation in a public offer should be given in writing.

**Article 328**

**Transmission**

1. When the financial intermediary may not execute an order, it should transmit said order to another financial intermediary capable of executing it.

2. The transmission should be immediate and respect the priority of reception, except when otherwise indicated by the entity placing the order.

3. The financial intermediary should assure the possibility of reconstitution of the internal route that the orders have followed until their transmission.
4. Except for indication to the contrary by the entity placing the order, the financial intermediary may batch in a single order, the orders of many entities for execution in a registered market, if such is compatible with the nature of the orders, does not cause damage to the entities placing the order and the financial intermediary has transparent proceedings to allocate to each entity the effected operations.

**Article 329**

Revocation and amendment

1. Orders may be revoked or modified, provided that the revocation or modification is communicated to those who should execute them prior to execution.

2. The amendment of an order to be carried out in a registered market constitutes a new order.

**Article 330**

Execution

1. Orders should be executed in the conditions and at the time indicated by the entity placing the order.

2. In the absence of indication from the entity placing the order, the orders should be executed in the best conditions that the market permits, immediately or at the most adequate time.

3. The orders may be partially executed, except for an indication to the contrary by the entity placing the order.

4. The orders relating to securities admitted for trading in a determined market should be executed in that market, except for express and written indication by the entity placing the order.

5. The provisions of Article 328 (2) to (4) are applicable to the execution of orders.

**Article 331**

Responsibility before the entities placing the orders

1. The financial intermediaries are answerable before the entities placing the orders, for the following:
1. By the contract for the individual management of a securities portfolio, the financial intermediary is obliged to:

   a) Execute all the acts with a view to increasing the appreciation of the portfolio;

   b) Exercise the rights inherent in the securities that comprise the portfolio.

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

   a) The initial composition of the portfolio;

   b) The type of financial instruments that may be included in the portfolio;

   c) The acts the manager may or should practise on the client’s behalf;

   d) The degree of discretion conceded to the manager;

   e) The management acts that may be practised by a third party;

   f) The periodicity of information relating to the situation of the portfolio;
g) A list of acts that should be especially communicated to the client;

h) The criteria to determine the commissions due to the financial intermediary.

**Article 333**  
**Portfolio composition**

1. If the portfolio allows derivatives in its composition, the contract should indicate whether these instruments may be utilised for purposes diverse from the risk coverage of the positions of the said portfolio.

2. The provision in the present Title applies to the management of securities, even when the portfolio includes assets of another nature.

**Article 334**  
**Binding orders**

1. Even when not set out in the contract, the client may give binding orders to the manager regarding the operations to be executed.

2. The provisions of the previous sub-article do not apply to contracts guaranteeing a minimum profitability of the portfolio.

**Article 335**  
**Form and standardisation**

1. The portfolio management contract should be in writing.

2. The general contractual clauses adopted by each financial intermediary are subject to registration with the CMVM.

**Article 336**  
**Duty to inform**

The manager has the duty to inform the client about the risks to which it is subject as a result of the management, especially considering the objectives of the investment and the level of discretion granted to the manager.
Section IV
Assistance and placement

Article 337
Assistance

1. Contracts of technical, economic and financial assistance in a public offer include the rendering of the necessary services for the preparation, launching and execution of the offer.

2. The following assistance services should be rendered by a financial intermediary:

   a) Preparation of the prospectus and the public offer's announcement;

   b) Preparation and presentation of the request for registration with the CMVM;

   c) Assessment of the declaration of acceptance except in those cases described in Article 127(1) (b).

3. The financial intermediary responsible for the assistance in public offers should advise the offeror on the terms of the offer, particularly regarding time schedules and price, and assure compliance with the legal and regulating provisions, especially regarding the quality of the information transmitted.

Article 338
Placement

1. By the placing contract, a financial intermediary is obliged to use its best efforts to distribute the securities which are the object of the public offer, including receipt of subscription or acquisition orders.

2. The placing contract may be executed by a financial intermediary different from the one who renders services of assistance in the offer.

Article 339
Underwriting

1. By the underwriting contract, the financial intermediary is obliged to acquire the securities that are the object of the public offer of
distribution and place them for its account and risk in the terms and the time period agreed upon with the issuer or disposer.

2. The borrower should transfer to the final acquirers, all the patrimonial rights inherent in the securities constituted after the date of the underwriting.

3. The underwriting does not affect the rights of preference in the subscription or acquisition of the securities, with the borrower being responsible for advising the respective individual on their exercise in terms equivalent to those which would be applicable without the underwriting.

(Rectified by Rectification Declaration No. 23-F/99)

Article 340
Guarantee of placement

In the contract of placement, the financial intermediary may oblige itself to acquire, wholly or partially, for itself or a third party, the securities not subscribed or acquired by the addressees of the offer.

Article 341
Assistance or placement consortium

1. The consortium contract between financial intermediaries for assistance or placement should have the agreement of the offeror and expressly reflect the head of the consortium, the quantity of securities to be placed by each financial intermediary and the rules that will regulate the relationship between the members.

2. It is incumbent on the head of the consortium to organise the constitution and structure, and represent the members of the consortium before the offeror.

Article 342
Investment intention solicitation

The contracts executed to solicit investment intention are described in Article 164 et seq and regulated by Articles 337 and 338, with the necessary adaptations.
Section V
Registration and deposit

Article 343
Contents

1. The contracts for registration or deposit of securities should include the description of the obligations of the financial intermediary that result from the law or regulations;

2. The contract obliges the financial intermediary to render services relating to the rights inherent in registered or deposited securities.

3. The financial intermediary may contract a third party to render part or parts of the services resulting from the contract.

4. Except for Article 324(1), contractual clauses, in a different form to paragraphs 2 and 3 of the present article, are permitted.

Article 344
Form and standardisation

1. The contracts of registration or deposit should be reduced to writing within eight days from the first registration or receipt for deposit.

2. The contracts are executed based on general contractual clauses registered with the CMVM.

Section VI
Investment advisory services

Article 345
Obligations of the independent investment adviser

In investment advising contracts, the adviser should:

a) Inform the advisee party of the risks involved in the investment under advice;

b) Provide the advisee party with an estimate as to the costs of the operations to be carried out and the advisory services;

c) Inform the advisee party of the interests of the adviser that are, directly or indirectly, related to the advice;
d) Issue a written invoice for each consultation with a brief description of the object of the advice and identification of the individual who provided it.

Chapter III
Transactions for own account

Article 346
Acting as counterpart of the client

1. A financial intermediary authorised to act for its own account may execute contracts as a counterpart of the client, provided said client has, in writing, authorised or confirmed the business transaction.

2. The authorisation or confirmation referred to in the preceding number shall not be required when the counterparty is a qualified investor or the transactions are to be made on a regulated market, through centralised trading systems.

(Art Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 347
Conflicts of interest

1. The financial intermediary should abstain from:

   a) Executing operations for own account together with operations for the clients’ account;

   b) Acquiring for itself any securities when there are clients that have requested them at the same or higher price;

   c) Selling own securities instead of securities of the same category whose sales have been ordered by their clients at the same or lower prices.

2. Operations executed contrary to the provision of the previous sub-article are ineffective before the client if not ratified by the same within eight days of the notification by the financial intermediary.
Article 348
Market making

1. The operations involving market making aim at the creation of conditions for the normal trade in a market of a determined category of securities or derivatives, namely the increase of liquidity.

2. Market making operations should be preceded by a contract established between the market managing entity and the financial intermediary.

3. When market making operations are related to securities and as prescribed by law, regulations or rules of the market in question, the contract mentioned in the previous sub-article is established with the issuer of the securities whose trading is intended to be increased.

4. The contracts mentioned in paragraphs 2 and 3 or the general standard clauses of said contracts, when they exist, are registered with the CMVM.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 349
Price stabilisation

Transactions likely to produce stabilising effects on the prices of a certain type of securities shall only be permitted when carried out in the terms laid down in Regulation no. 2273/2003/EC of the Commission of 22 December.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 350
Securities lending

1. Lent securities are transferred to the borrower, except for contractual provision to the contrary.

2. Securities lending to settle regulated market trades shall not be regarded as financial intermediation when carried out by the market operator or the settlement system or the central counterparty elected by the latter.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
1. The CMVM defines, by regulation, the rules for the operations performed by financial intermediaries for their own account, as well as the terms and time periods of communication of these operations to the CMVM, especially with the aim of detecting conflicts of interest and acts susceptible of putting at risk the regular functioning, transparency and credibility of the market.

2. In relation to the market making operations and price stabilisation, the CMVM defines, by regulation, namely, the information to be presented to the CMVM and the market by the entities described in Article 348(2) and Article 349(a).

3. Regarding the activities of price stabilisation, the CMVM, by regulation, defines namely:

   a) The criteria for determining reference prices;

   b) The information to be provided to the CMVM and the market by the financial intermediary;

4. In relation to securities lending operations, the CMVM, by regulation, with the prior opinion of the Bank of Portugal, defines the following:

   a) The time period and quantity of securities lent;

   b) The requirements for guarantees for operations executed outside the regulated market;

   c) The rules for registration of the securities lent and accounting of the operations;

   d) The information to be provided to the CMVM and market by the financial intermediaries.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
Title VII
Supervision and regulation

Chapter I
General provisions

Article 352
Government Responsibilities

1. By the Finance Ministry, the Government may:

a) Establish policies relating to the securities markets and, generally, matters regulated by this Code and supplementary legislation;

b) Carry out, in relation to the CMVM, the administrative supervision conferred by the bylaws of said entity;

c) Co-ordinate the supervision and regulation of securities, when the competence belongs to more than one public entity.

2. When a disturbance is verified in the securities markets that puts the national economy at serious risk, the Government, may by means of a joint administrative ruling by the Prime Minister and the Minister of Finance, adopt the appropriate measures, namely the provisional suspension of markets, certain categories of operations or the activities of market managing entities, settlement system management entities and securities centralised systems management entities.

Article 353
The CMVM’s Responsibilities

1. The CMVM’s responsibilities in addition to those established in its legal framework are:

a) The supervision of securities markets, public offers of securities, settlement systems, securities centralised systems and the entities set out in Article 359;

b) The regulation of securities markets, public offers of securities, the activities carried out by entities under the CMVM’s supervision and other matters set out in this Code and supplementary legislation;
2. During its performance and within the scope of its responsibilities, the CMVM co-operates with other national and foreign authorities, that carry out supervisory and regulatory functions of the financial system, and international organisations of which the CMVM is a member.

**Article 354**  
**Duty of secrecy**

1. The CMVM’s bodies and their members, employees and the individuals who provide any service, directly or indirectly, permanently or occasionally, are subject to professional secrecy as to the facts or details of which they have knowledge in the performance of their functions or rendering of services, and are prohibited from disclosing said information either for individual or third party gain, directly or indirectly.

2. The duty of secrecy persists even after the cessation of functions or services rendered.

3. The facts or details subject to secrecy may only be revealed by authorisation of the interested individual, transmitted to the CMVM, or in other circumstances set out in law.

4. The duty of secrecy does not cover facts or details disclosed by the CMVM whether imposed or permitted by law.

**Article 355**  
**Exchange of information**

1. When necessary to the performance of its functions, the CMVM may exchange information as to facts and details subject to the duty of secrecy with the following entities, which are also equally subject to the duty of secrecy:

a) The Bank of Portugal and the Portuguese Insurance Institute;

b) Regulated markets managing entities;

c) Managing entities of settlement systems and centralised systems of securities;

d) Authorities intervening in processes of insolvency or recuperation of the entities described in Article 359(1) (a) & (b);
e) Managing entities of sinking funds and investor compensation schemes;

f) Auditors and authorities with supervisory capacity.

2. The CMVM may also exchange information, even if subject to secrecy, with the supervisory authorities of Member States of the European Community or entities that carry out functions equivalent to those described in sub-article 1.

3. The CMVM may also exchange information with the supervisory authorities of States that are not members of the European Community and entities that carry out equivalent functions to those described in sub-article 1, if, and to the extent necessary for the supervision of the securities markets and the supervision, on an individual or consolidated basis, of financial intermediaries.

**Article 356**

**Handling of information**

1) The information received by the CMVM according to the terms of the previous article may only be used:

a) To examine the conditions of access to the financial intermediation activity;

b) For the supervision, on an individual or consolidated basis, of financial intermediation activity and the securities markets;

c) For the instruction of processes and application of penalties;

d) In the scope of appeals against the decisions of the Minister of Finance, the CMVM, the Bank of Portugal or the Portuguese Insurance Institute, taken in accordance with the provisions applicable to the entities subject to the respective supervision;

e) For the performance of the legal duty to collaborate with other entities or for the development of co-operative actions.

2. The CMVM may only communicate to other entities, information that has been received from the entities described in paragraph 2 of the previous article with the express consent of those entities.
3. Disclosure of information in summary or aggregate form, that does not permit individual identification, is illegal.

**Article 357**  
The CMVM’s Bulletin

The CMVM publishes, periodically, a Bulletin containing:

a) Its regulations and instructions;

b) Recommendations and general legal opinions;

c) Authorisation decisions;

d) Initial and subsequent registration, when the registration is public.

**Chapter II**  
Supervision

**Article 358**  
Principles

The supervision carried out by the CMVM should comply with the following principles:

a) Investor protection;

b) Efficiency and regularity of the functioning of security markets;

c) Information control;

d) Systemic risk prevention;

e) Prevention and repression of actions contrary to law or regulation;

f) Independence before any entity, whether under its supervision or not.

**Article 359**  
Entities subject to the CMVM’s supervision

1. In relation to securities activities, without prejudice to the competence granted to other authorities, the following entities are subject to the CMVM's supervision:
a) Managing entities of markets, settlement systems and centralised systems of securities and the entities described in Article 268(2) (c);

b) Financial intermediary and independent investment advisers;

c) Security issuers;

d) The qualified investors referred to paragraphs a) to f) of no. 1 of Article 30 and holders of qualifying holdings;

e) Sinking funds and investor compensation schemes and their respective managing entities;

f) Auditors and risk rating companies, registered with the CMVM;

g) Others that carry out, as principal or secondary, activities relating to the issue, distribution, trading, registration or deposit of securities or, in general, the organisation and functioning of the security markets.

2. Individuals or entities that carry out cross-border activities are subject to the CMVM’s supervision provided said activities have some relevant connection to markets, operations or securities subject to Portuguese law.

3. The entities under the CMVM’s supervision should provide it with the requested collaboration.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 360**

**Supervision proceedings**

1. Within the scope of its responsibilities, the CMVM may adopt, in addition to others laid down by law, the following actions:

a) Monitor the activity of entities subject to its supervision and the functioning of the securities market, securities settlement systems and centralised systems of securities;

b) Supervise the compliance with the law and regulations;

c) Approve acts and grant authorisations laid down by law;
d) Effect registrations laid down by law;

e) Provide information for claims and punishment of offences within the CMVM’s jurisdiction;

f) Give orders and formulate concrete recommendations;

g) Disseminate information;

h) Publish studies;

i) Regularly assess and disclose, after consulting with the relevant stakeholders, the market practices that may be accepted or not, reassessing the same whenever necessary, as well as their characteristics, terms and conditions in conformity with the principles laid down in Article 358 and the other applicable legal and regulatory framework, transmitting the respective decision to the Committee of European Securities Regulators.

2. The powers, described in sub-article (1)(e) above, are carried out in relation to any individual, even when not included within the scope of Article 359(1).

3. For the purposes of the provisions of paragraph i) of no. 1, the CMVM shall notably take into account the principles contained in Article 358, the possible effects of the practices in question on the market’s liquidity and efficiency, their transparency and adequacy to the nature of the markets and trading mechanisms adopted, the national and international interplay of the various markets and the various risks inherent therein.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 361
Supervision

1. During supervision, the CMVM will take all the necessary steps to assure the effectiveness of the principles described in Article 358, safeguarding, as much as possible, the autonomy of the entities subject to its supervision.

2. During supervision, the CMVM may adopt the following procedures:
a) Request any details and information, examine books, registers and documents, whereby the supervised entities may not invoke professional confidentiality;

b) Hear any individual, summoning them when necessary;

c) Require that the parties responsible for the premises, where instructions for claims or other proceedings are issued, makes same available to its agents for the execution of said tasks, in suitable condition;

d) Request from the police authorities, the necessary collaboration needed in the performance of its functions, particularly, in the event where there is resistance to the performance of the same;

e) Replace any managing entities of the securities markets when they do not adopt the necessary measures to regularise anomalous situations that put the regular functioning of the market or the interest of investors at risk;

f) Replace supervised entities in their duty to inform;

g) Publicly disclose the fact that an issuer is not performing its duties.

3. In the situations described in sub-articles (1) and (2)(a),(b) & (c) above, the CMVM may determine in writing that the individual or entity in question be subject to the duty of not disclosing to clients or third parties the contents or occurrence of the action.

4. In the appeals against decisions made by the CMVM, the exercise of its powers of supervision, it is presumed, until proven to the contrary, that the suspension of the said decision will cause serious damage to public interest.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 362
Continuous supervision

The CMVM will continuously accompany the activity of the entities that are under its supervision, even when there exists no suspicion of irregularity.
Article 363
Prudential supervision

1. The following entities are subject to the CMVM’s prudential supervision:

a) Managing entities of markets, settlement systems, centralised systems of securities markets and the entities mentioned in Article 268(2) (c);

b) Collective investment undertakings;

c) The managing entities of sinking funds and investors compensation schemes.

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

a) Preservation of the solvency and liquidity of the institutions, as well as the prevention of risks;

b) Prevention of systemic risk;

c) Control of the ethical standards of the members of the management bodies as well as of the holders of qualifying holdings, in accordance with the criteria defined in Article 30 of the General System of Credit and Financial Institutions, with the appropriate adaptations.

3. The CMVM will establish, by regulation, the principles mentioned in paragraphs a) and b) of the previous sub-article.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 364
Inspection

1. During the course of inspection the CMVM should:

a) Effect the inspections it considers necessary of the entities under its supervision;

b) Perform inquiries to investigate offences of any nature committed in the securities market or that effect the normal functioning of said market;
c) Carry out any actions required to comply with the principles laid down in Article 358, particularly in respect of the transactions described in Article 311.

2. The CMVM will inform the competent entities of an offence, which comes to its notice and that occurs outside the CMVM’s competence.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 365**

**Registrations**

1. Registrations carried out by the CMVM aim at controlling the legality and conformity with the regulation of facts or details subject to registration and supervision organisation.

2. Registrations carried out by the CMVM are public, except when the law provides to the contrary.

3. The documents used to affect registrations are public, except when containing any individual information that does not form part of the registration or when the registration was made within the scope of a proceeding of administrative offence or an investigation still in course, or that, for any other reason whatsoever, should remain secret.

4. The CMVM will define, by regulation, the basis for the public access to the registrations and documents described in the previous sub-articles.

5. The CMVM will maintain a record of the major and secondary sanctions imposed by administrative offence proceedings which are not accessible to the public.

6. The registrations carried out by the CMVM may be included in computer programmes, provided the legal limitations regarding the protection of individual information are respected.

**Article 366**

**Supervision relating to advertising**

1. It is incumbent on the CMVM to monitor the application of legislation concerning advertising relating to matters regulated in this Code, commencing the necessary administrative offence proceedings and applying the respective sanctions.
2. With regard to illegal advertising material, the CMVM may demand:

a) The necessary amendments to correct the illegality;

b) The suspension of the advertising act;

c) The immediate publication of the appropriate rectification by the responsible party.

3. Each period of suspension of the advertising action shall not exceed 10 working days;

4. In the event of any failure to comply with the order referred to in paragraph c) of no. 2, the CMVM may perform the action in lieu of the defaulting party, without prejudice to any applicable sanctions.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 367
Disclosure of information

1. The CMVM shall organise a computerised information disclosure system available to the public which may include, among other aspects, particulars contained in its records, decisions of interest to the public and any other information notified to or approved by the CMVM, notably inside information in the terms of Article 248, qualifying holdings, accounts and prospectuses.

2. The prospectuses referred to in the preceding number shall be available for at least one year.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 368
Publication expenses

The declaration by the CMVM’s Executive Board, attesting that expenses have been incurred in publications that, according to the law, may be promoted at the expense of entities subject to its supervision, is considered a writ of execution.
Chapter III
Regulation

Article 369
The CMVM’s regulations

1. The CMVM shall draw up regulations on the matters covered by its duties and powers.

2. The CMVM's regulations should observe the principles of legality, necessity, clarity and advertising.

3. The CMVM's regulations are published in the second edition of the Portuguese Official Gazette ("Diário da República"), taking effect on the date of the same or five days after publication.

4. The CMVM's regulations including material relating to a determined market or securities traded in such a market are also published in that market’s bulletin.

5. The CMVM's regulations that only regulate proceedings of an internal nature of one or more types of entities are called instructions; these instructions are not published in accordance with the above sub-articles; they are communicated to the respective addressees and take effect five days after notification or on the date of same.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 370
Recommendations and general legal opinions

1. The CMVM may issue general recommendations directed at one or more types of entities subject to its supervision.

2. The CMVM may formulate and publish general legal opinions concerning relevant questions that are placed in writing by any one of the entities subject to its supervision, or the respective associations.

Article 371
Publication of consolidated rules

The CMVM publishes annually an updated text of legal and regulatory rules on matters regulated by this Code and supplementary legislation.
Article 372
Self-regulation

1. Within the limits of the law and regulations, the managing entities of markets, settlement systems and centralised securities systems may individually regulate the activities they manage.

2. The rules established in the previous sub-articles, as well as those that consist of codes of conduct approved by managing entities and professional associations of financial intermediaries are subject to registration with the CMVM, for legality control and respect for the regulations.

Chapter IV
Co-operation

Article 373
Principles

In addition to same described in Article 358, the co-operation developed by the CMVM should obey the principles of reciprocity, respect for the professional duty of secrecy and restricted use of information for the purposes of supervision.

Article 374
Co-operation with other national authorities

1. In relation to the entities that are also subject to the supervision of other authorities, namely the Bank of Portugal and the Portuguese Insurance Institute, the CMVM and these authorities should co-operate among themselves in order to co-ordinate the exercise of their respective powers of supervision and regulation.

2. The co-operation described above is of a regular nature and may take place:

   a) In the preparation and approval of regulations, when the law attributes joint competence to them;

   b) In carrying out mutual consultations;

   c) In the exchange of information, even when subject to the professional duty of secrecy;
d) In the accomplishment of acts of joint inspection;

e) In the establishment of agreements and common proceedings.

**Article 375**  
**Co-operation with other national institutions**

1. Public or private entities, with powers of intervention over any of the entities described in Article 359, should co-operate with the CMVM as to the exercise of its powers of supervision.

2. The agreements executed under the above provisions should be published in the CMVM’s Bulletin.

**Article 376**  
**Co-operation with foreign counterpart institutions**

1. The CMVM co-operates with counterpart institutions or the equivalent of other States, whenever necessary for the development of cross-border activities with relevant connection to the national territory.

2. The CMVM may sign with the said institutions, bilateral or multilateral agreements for co-operation, with the intention of:

   a) Collecting details relating to the offences against the securities market and others whose investigation falls within the scope of the CMVM’s responsibilities;

   b) Exchanging information necessary for the performance of the respective functions of supervision or regulation;

   c) Consultation as to problems arising from the respective responsibilities;

   d) Staff training and exchange of experience within the scope of the respective responsibilities;

3. The agreements described above may cover the subordinate participation of representatives of counterpart institutions of a foreign State in acts of the CMVM’s jurisdiction, whenever there is a suspicion of violations of the law of that State.
4. The co-operation described in the present Article should be developed in terms of the law, the European Community law and the international conventions that bind the Portuguese State.

5. The provisions of this Article shall apply to the relationships resulting from the participation of the CMVM in international organisations, all necessary changes being made.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 377

Cooperation and assistance in the context of the European Union

1. Without prejudice to application of the provisions of the preceding Article, the CMVM shall cooperate with its counterpart organisations of the European Union Member States in the context of investigation of insider dealing, market abuse and breach of the duty of defence of the market activities.

2. Upon the request of a counterpart organisation, the CMVM shall immediately supply any information requested for the purposes of the provisions of the preceding number and, if it is unable to do so, it shall notify the reasons therefor to the requesting organisation, adopting, if necessary, any appropriate measures to obtain the information requested.

3. The CMVM may refuse to act on a request for information where its communication might adversely affect sovereignty, security or public order, judicial proceedings have already been initiated or a final judgment has already been delivered in respect of the same actions and against the same persons by or before the Portuguese courts.

4. In the case contemplated in the preceding number, the CMVM shall notify the requesting organisation accordingly, providing as detailed information as possible on these proceedings or the judgment.

5. Upon the request of the counterpart organisation referred to in no. 1, the CMVM shall conduct in the domestic territory and under its direction any investigations and actions necessary to examine the circumstances contrary to the provisions of no. 1, and may be accompanied by representatives of the requesting organisation during the course of its investigation.
6. The CMVM may refuse to act on a request for action or to be accompanied by representatives of the requesting organisation in the cases contemplated in no. 3.

7. If the CMVM is convinced that acts contrary to the provisions of no. 1 are being, or have been, carried out in the territory of another Member State or that acts are affecting financial instruments traded on a regulated market situated in another Member State, it shall give notice of this fact in as specific a manner as possible to the counterpart organisation of the other Member State, without prejudice to its powers to investigate and act upon the offences in question.

8. If the CMVM receives a notification analogous to that contemplated in the preceding number from a counterpart organisation of another Member State, it shall inform the notifying counterpart organisation of the outcome and, so far as possible, of significant interim developments.

9. In the cases contemplated in nos. 7 and 8, the CMVM and counterpart organisations competent to investigate and act upon the offences in question shall consult with one another on the course of action to be adopted.

10. The CMVM shall agree with its counterpart organisations the consultation and cooperation mechanisms necessary to comply with the provisions of paragraph i) of no. 1 and no. 3 of Article 360.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 377 A**

**Precautionary measures in international cooperation**

1. Where the CMVM finds that, in the context of public offers or international admissions in the European Union space, the issuer or the financial intermediary in charge have breached legal or regulatory provisions concerning public offers and admission of securities to trading on regulated markets, it shall refer these findings to the competent authority of the home Member State in the terms of Article 145 and ask this authority to take precautionary measures as soon as possible.

2. If the competent authority fails to take the measures requested or because such measures prove inadequate and the issuer or the
financial intermediary in charge of the public offer persists in breaching the applicable provisions, the CMVM, after informing the competent authority of the home Member State, shall take cautionary measures in order to protect investors.

3. The Commission shall be informed of such measures at the earliest opportunity.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)
Title VIII
Crimes and administrative offences

Chapter I
Crimes

Section I
Crimes against the market

Article 378
Insider trading

1. Any person who possesses inside information:

a) By virtue of his membership of the administrative, management or supervisory bodies of the issuer or his holding in the capital of the issuer; or

b) By virtue of his having access to the information through the permanent or occasional exercise of his employment, profession or duties in respect of the issuer or any other entity; or

c) By virtue of his public employment or office; or

d) By virtue of his criminal activities;

and discloses such information to any person other than in the normal course of the exercise of his functions or who, on the basis of such information, trades or advises anyone to trade in securities or other financial instruments, or directly or indirectly orders their subscription, purchase, sale or exchange for his own account or for the account of another person, shall be punished by imprisonment for up to 3 years or a fine.

2. Any person not falling under the provisions of the preceding number and who, having become aware of inside information, discloses it to another person or, on the basis of such information, trades or advises anyone to trade in securities or other financial instruments, or directly or indirectly orders their subscription, purchase, sale or exchange for his own account or for the account of another person, shall be punished by imprisonment for up to 2 years or a fine of up to 240 days.
3. Inside information shall mean information of a precise nature which has not been made public relating, directly or indirectly, to one or more issuers, securities or other financial instruments and which, if it were made public, would be likely to have a significant effect on their market.

4. In relation to derivatives on commodities, inside information shall mean information of a precise nature which has not been made public relating, directly or indirectly, to one or more such derivatives and which users of markets on which such derivatives are traded would expect or would be entitled to receive in accordance with accepted market practices or regulations on the disclosure of information on those markets, respectively.

5. The provisions of this Article shall not apply to transactions carried out in pursuit of monetary, exchange rate or public debt management policy by the European Central Bank, a State, its national central bank or by any other body designated by such State, nor to trading in own shares in "buy-back" programmes carried out in the conditions permitted under the law.

6. An attempt at any of the described illegal acts is punishable.

7. If the transactions referred to in nos. 1 and 2 involve the portfolio of a third natural person or legal entity that is not indicted, this natural person or legal entity may be prosecuted in criminal proceedings as a civil party in the terms contemplated in the Criminal Procedure Code, for the purposes of seizing the benefits of the crime or remedying damages.

(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)
(Rectified by Rectification Declaration No. 21/2006, of 30th March)

**Article 379**

**Market manipulation**

1. Whoever discloses false, incomplete, exaggerated or biased information, carries out operations of a fictitious nature or executes other fraudulent practices that are capable of altering artificially the regular functioning of the securities or other financial instruments market, should be punished by imprisonment for a maximum of three years or a fine.
2. Those acts considered capable of altering artificially the regular functioning of the securities market are, namely, acts that may change the conditions of price development, the regular conditions of offer or demand of securities or other financial instruments or the normal conditions of issue and acceptance of a public offering.

3. The members of the administrative body and those responsible for the general management or supervision of areas of activity of a financial intermediary who, having knowledge of the facts described in sub-article 1, performed by individuals directly subject to their management or supervision, and in the performance of their functions, do not stop them immediately, should be punished by imprisonment for a maximum of 2 years or a fine payable up to a maximum of 240 days, if a more serious punishment is not applicable under any other legal provision.

4. An attempt at any of the described illegal acts is punishable.

5. If the circumstances set out in nos. 1 and 3 involve the portfolio of a third natural person or legal entity that is not indicted, this natural person or legal entity may be prosecuted in criminal proceedings as a civil party in the terms contemplated in the Criminal Procedure Code, for the purposes of seizing the benefits of the crime or remedying damages.

6. The provisions of this Article shall not apply to transactions carried out in pursuit of monetary, exchange rate or public debt management policy by the European Central Bank, a State, its national central bank or by any other body designated by such State, nor to price stabilisation transactions carried out in the conditions permitted under the law.

(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)

**Article 380**

**Supplementary penalties**

Besides those set out in the Penal Code, the following supplementary penalties may be imposed to the crimes described in the previous articles:

a) Disqualification, for a maximum period of five years, from the practice as agent of the profession or activity associated with the crime, including prohibition of the practice of management,
administration, control or supervision and, in general, representation of any financial intermediary, within the scope of some or all intermediary activities in securities or other financial instruments.

b) Publication of the conviction, at the expense of the defendant, at appropriate locations and in compliance of the legal system and protection of the securities or other financial instruments market.

**Article 380-A**

**Seizure and forfeiture of the benefits of a crime**

1. Where an offence generates transitional or permanent economic benefits for an indicted person or a third party for whose account the indicted person trades, including interest, profits or other economic benefits, the same shall be seized during the proceedings or, at least, declared forfeited in the decision convicting such persons, in the terms laid down in the following numbers.

2. The economic benefits generated by an offence include capital gains effectively realised and expenses and losses avoided by committing the offence, irrespective of the final application thereof by the indicted person and even if he has subsequently lost them.

3. Any amounts seized in the terms of preceding numbers shall be applied to remedy the persons who have incurred damages and submitted their claims in the context of criminal proceedings, 60% of the remainder being declared forfeited in favour of the State and 40% in favour of the investor compensation scheme.

4. The economic precautionary measures set out in the Criminal Procedure Code shall apply in the context of proceedings relating to insider dealing and market abuse offences, without prejudice to resort to the measures to fight organised crime and economic and financial crime contemplated in separate legislation.

*(Amended by Article 3 Decree-Law No. 52/2006, of 15th March)*
Section II
Crime of non-compliance

Article 381
Non-compliance

1. Whoever refuses to respect the orders or legitimate writs of the CMVM, issued within the scope of its supervisory functions, or by any form creates obstacles to its execution, should incur the penalty set out for the crime of qualified non-compliance.

2. Those who fail to meet obligations hinder or defraud the execution of the accessory sanctions or the precautionary measures, imposed in an administrative offence process, should incur the same penalty.

Section III
Procedural provisions

Article 382
Notification of crime report

1. Notification of crimes against securities or other financial instruments markets is obtained from the CMVM's own information, criminal police agencies or denunciation.

2. Any financial intermediaries which have their registered office, central management or a branch in Portugal and court or police authorities or employees who, in the course of their profession or duties, become aware of circumstances that may be qualified as a crime against the securities market or that of other financial instruments shall immediately notify the Executive Board of the CMVM.

3. The notification referred to in the preceding number may be submitted through any means appropriate to such end, and shall be confirmed in writing upon the request of the CMVM whenever it has not been initially submitted in writing.

4. The notification submitted by financial intermediaries shall contain the reasons for the suspicion, a detailed and accurate identification of the transactions in question, the orders given, the persons on whose behalf the transactions were carried out, and of other persons involved in the relevant transactions, the ways of trading, the portfolios involved, the economic beneficiaries of the transactions, the markets in question and any other information which may have significance to
the end in mind, as well as the capacity in which the person signing the notification operates and his relationship with the financial intermediary.

5. A person or entity that submits a notification to the CMVM in the terms of this Article shall be prohibited from disclosing this fact or any other information thereon to clients or third parties, and shall not be held liable for performing this duty of secrecy or any notification in good faith.

6. Neither the identity of the person notifying such transactions or supplying any information contemplated in this Article nor the identification of the entity for which such person works shall not be disclosed, unless such disclosure is ordered by a judge in the terms contemplated in the Criminal Procedure Code.

(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)

**Article 383**

Preliminary investigation

1. Once the facts that may be qualified as crimes against the securities or other financial instruments market have been established, the CMVM’s Executive Board may order the opening of preliminary investigation proceedings.

2. Such preliminary investigations include the actions necessary to determine the possible existence of a crime against the securities or other financial instruments market report.

3. The preliminary investigations are conducted without prejudice to the supervisory powers of the CMVM.

**Article 384**

Competency

The process of investigation is initiated and directed by the CMVM’s Executive Board, without prejudice to the internal rules of the distribution of powers and the general delegations of powers within the respective services.
Article 385
The CMVM’s prerogatives

1. For the purposes of the preceding Articles, the CMVM may:

a) Ask any persons or entities for any clarification, information, documents, irrespective of their form, items and particulars necessary to confirm or reject the suspicion of a crime against the securities market or that of other financial instruments;

b) Seize, freeze or inspect any documents, irrespective of their form, valuables, items related to the suspected crimes against the securities or securities market or that of other financial instruments or seal items not seized in the facilities of persons and entities subject to its supervision, to the extent the same prove to be necessary to investigate the suspected crime against the securities market or that of other financial instruments;

c) Request the competent judiciary authority, in a duly reasoned way, to authorise that fixed or mobile telecommunications service providers or Internet service providers be asked for any existing records of telephone calls and data transmissions;

d) Request fixed or mobile telecommunications services providers or Internet service providers for any existing records of telephone calls and data transmissions.

2. For the purposes of the provisions of the preceding number, the CMVM may request the collaboration of other entities, the police authorities and criminal investigation police bodies.

3. In the event of an emergency or danger arising from any delay, even before starting any preliminary enquiries for the purposes of this section, the CMVM may perform the actions referred to in paragraph b) of no. 1, including seizure and freezing of valuables, irrespective of the place or organisation in which the same are located.

4. The actions referred to no. 4 of Article 380-A may also be requested by the CMVM of the competent judiciary authorities, in the context of any preliminary enquiries that may take place.

5. The provisions of the Criminal Procedure Code shall apply to any actions performed under paragraph b) of no. 1.

6. The authorisation to obtain the records referred to in paragraph c)
of no. 1 shall be granted within forty eight hours by the competent magistrate of the Public Prosecution, and his decision must be notified to the judge in charge of the investigation for the purposes of ratification.

7. The obtainment of the records referred to in the preceding number shall be deemed validated if no decision refusing ratification is issued by the judge in charge of the investigation within the following forty eight hours.

8. In the cases referred to in paragraph c) of no. 1 in which a framework of protection of professional secrecy may be alleged, the prior authorisation must be directly requested by the competent magistrate of the Public Prosecution from the judge in charge of the investigation, and such authorisation must be decided upon without any further formalities and shall be deemed granted if no decision to refuse is issued within forty eight hours.

(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)

Article 386
Termination of the investigation process

Once the preliminary investigation process has been concluded and a crime report obtained, the CMVM’s Executive Board refers the relevant details to the competent judicial authority.

Article 387
Notification duty

The CMVM’s Executive Board are notified of the decisions taken during the proceedings of crimes against the securities or other financial instruments market.
Chapter II
Administrative offences

Section I
Special administrative offences

Article 388
Common provisions

1. The following fines are applicable to the offences set out in this Section:

a) Between € 25,000 and € 2,500,000 when qualified as very serious;

b) Between € 12,500 and € 1,250,000, when qualified as serious;

c) Between € 2,500 and € 250,000, when qualified as less serious;

2. The administrative infractions contemplated in the following Articles concern both the breach of duties laid down in this Code and any regulations thereon and the breach of duties laid down in other domestic or Community laws and any regulations thereon in respect of the following matters:

a) Securities or other financial instruments, public offers concerning securities, securities markets or those of other financial instruments, settlement or financial intermediation systems, venture capital companies, venture capital funds or entities legally authorised to manage venture capital funds and the information system concerning any of these matters;

b) Managing entities of the securities or other financial instruments markets, settlement systems, centralised systems of securities or holding companies of these entities.

3. If, in accordance with the law or regulation, a duty is required to be fulfilled within a determined period of time, non-compliance with same is deemed to exist as soon as the time period has expired.

4. Information that has not been disclosed by the appropriate means, is deemed not to have been disclosed.

5. Where a law or a regulation of the CMVM alters the conditions or terms of compliance with a duty contained in a prior law or regulation,
the former law shall apply to the circumstances that occurred while it was in effect, and the new law shall apply to all subsequent circumstances, unless the most favourable law applies in the light of the nature of the circumstances.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)
(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)

**Article 389**

**Information**

1. Disclosure or dissemination of information which is not complete, accurate, updated, clear, objective and lawful by any person or entity through any means shall constitute a very serious administrative infraction.

2. The above sub-article includes the information provided by any entity that exercises intermediation activities to its clients.

3. Any of the following behaviours constitutes a serious offence:

   a) Practice of actions described above, if the securities or any other financial instruments, to which the information refers, is not traded on a regulated market and, if the operation has a value equal or inferior to the maximum limit of the fine prescribed for serious offences.

   b) Submitting to the supervisory entities and the managing entities of markets, settlement systems and centralised securities systems, information that violates the principles described in sub-article 1;

   c) The total or partial failure to submit documents or information to the CMVM and managing entity of the regulated market;

   d) Publication of information without a report or opinion prepared by an auditor registered with the CMVM, whenever required by law;

   e) Breach of information systems containing investment recommendations and any conflicts of interest related thereto.

4. The disclosure of information not written in Portuguese or without a translation into Portuguese, when required, constitutes a less serious offence.

5. The disclosure of advertising material that is not in accordance with the following requirements constitutes a less serious offence:
a) Clear identification as an advertising message;

b) Approval by the CMVM when required;

c) Reference to the prospectus;

d) Prior disclosure of the preliminary prospectus, in case of withdrawal of investment intentions.

(Amended by Article 2 Decree-Law No. 52/2006, of 15th March)

**Article 390**

Public companies

1. The omission of a communication or publication of qualifying holdings in public companies that reaches or surpasses one third, one half or 90% of the voting rights corresponding to the company's capital, is a very serious offence.

2. The omission of the following is considered a serious offence:

   a) Communication or publication of qualifying holdings in public companies not described in the above sub-article;

   b) Communication to the CMVM of shareholder agreements relating to the exercise of the corporate rights in a public company;

   c) Verification of the authenticity of postal votes and guarantee of their confidentiality.

3. The lack or omission of the following is a less serious offence:

   a) Mention of the public company status in external acts;

   b) Communication to the CMVM of an indication of non-compliance with the duty of information relating to qualifying holdings in public companies;

   c) The rendering of information to the holder of a qualifying holding in a public company by the holders of securities to which the inherent voting rights are attributable;

   d) Mention of the details required in a proxy to participate in the general meeting of a public company;
e) Submitting to the CMVM the standard document used as a proxy to participate in a general meeting of a public company;

f) Rendering of information to the holders of voting rights by the recipient of a proxy to participate in a general meeting of a public company;

g) Fulfilment of the duties resulting from the loss of public company status.

**Article 391**  
**Sinking funds**

Failure to form compulsory sinking funds is a serious offence.

**Article 392**  
**Securities**

1. The violation of any of the following duties is a very serious offence:

a) Cancellation of certificated securities converted into book entry securities;

b) Adoption of measures to prevent or correct divergences between the quantity of the issued securities and those in circulation;

c) Adoption by the registering entities of the required means for the security of registers and separation of securities accounts;

d) Keeping individual registers of certificated or book entry securities integrated in a centralised system without the required details or documentation;

e) Blockage demanded by law or securities holders;

f) Mention on securities of their integration in a centralised system or exclusion without required updating.

2. The following are very serious offences:

a) Transfer of blocked securities;

b) Cancellation of registers or destruction of deposited Titles, except in the cases prescribed by law;
c) Creation, maintenance, management, suspension, or closing of centralised systems of securities outside the cases and terms prescribed by law or regulation.

3. [Revoked]

4. The following are serious offences:

a) The registration of book entry securities or deposit of certificated securities with an entity or in a centralised system distinct from those allowed or demanded by law;

b) Refusal of information by a registering or depository entity or managing entity of a centralised system to individuals authorised to request same or the omission of submitting information within the required time period prescribed by law or agreed with the interested party.

5. The facts described previously are a less serious offence when relating to securities issued by closed companies or companies not admitted to trading in a registered market.

(Amended by Article 1 Decree-Law No. 66/2004 of 24th March)

Article 393
Public offers

1. The following are very serious offences:

a) Performance of a public offer without approval of its prospectus or registration with the CMVM;

b) Disclosure of a public offer for distribution, decided or intended, and acceptance of subscription or purchase orders before disclosure of the prospectus or, in the case of a takeover bid, before publication of the offer announcement;

c) Disclosure of a prospectus, any supplements thereto and rectifications to the base prospectus without prior approval thereof by the competent authority;

d) The disclosure of privileged information about a public offer for distribution that has been decided or planned;
e) The creation or the amendment of accounts, registers or fictitious documents susceptible of modifying the rules of attribution of securities.

2. The violation of any of the following duties is a very serious offence:

a) The equality of treatment and observance of the rules of apportionment;

b) The disclosure of the results of an offering or application for admission to trading of securities that are the object of an offer;

c) Disclosure of a prospectus, base prospectus, any supplements and rectifications thereto or the final terms of the offer;

d) Inclusion of information in the prospectus, base prospectus, any supplements and rectifications thereto or the final terms of the offer which is complete, accuracy, updated, clear, objective and lawful in accordance with the models contemplated in Regulation no. 809/2004/EC of the Commission of 29 April;

e) The duty of secrecy relating to the preparation of a take-over;

f) Publication of the preliminary announcement of the public offer of acquisition;

g) The application for registration of the public offer of acquisition, as well as launching of same after the publication of the preliminary announcement;

h) The launching of a mandatory take-over;

i) Communication to the CMVM of an increase in voting rights in a percentage higher than 1% by whom, having exceeded more than one third of the voting rights within a public company, has proved that it does not control and is not in a group relationship with that company;

j) Relating to the execution of transactions pending a public offer of acquisition.

3. It is a serious offence for a public offering to take place:

a) Without the intervention of a financial intermediary, where such intervention is mandatory;
b) With violation of the rules relating to its amendment, revision, suspension, withdrawal or revocation.

4. The following are serious offences:

a) Collection of intentions to invest without approval of the preliminary prospectus by the CMVM or before disclosure thereof;

b) The violation of the issuer’s duty of co-operation in a public offering for sale;

c) The failure to submit the preliminary announcement to the CMVM, target company or managing entities of regulated markets;

d) The violation, by a company which is the object of a public offer of acquisition, of the duty to publish a report on the offer and submit same to the CMVM and offeror, of the duty to inform the CMVM of the trades in securities which are the object of the offer and of the duty to inform the employees about the contents of the offer documents;

e) Breach of the duty of prior notification of the registration document to the CMVM;

f) Breach of the duty to include the list of information incorporated by reference in the prospectus when the prospectus contains information incorporated by reference;

g) Breach of the duty to provide the CMVM with the document consolidating annual information.

5. The omission of communication to the CMVM of the following is a less serious offence:

a) Private offer for distribution;

b) Transactions carried out pending a public offer of acquisition.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)
(Amended by Article 2 Decree-Law No. 219/2006 of 2nd November)

Article 394
Markets

1. The following are very serious offences:
a) The creation, maintenance of functioning or management of a market, the suspension or the closing of its activity, outside the cases and terms prescribed by law or regulation;

b) The functioning of a market according to rules not registered with the CMVM or not published;

c) The lack of rendering to the public, by market managing entities, of information which they are obliged to provide;

d) The admission of members of a market by a market managing entity without the requirements prescribed by law or regulation;

e) The lack of advertising of the regulated markets sessions;

f) The admission of securities to trading in violation of legal rules and regulations;

g) The non-disclosure of the admission prospectus, respective addenda and rectifications, or information necessary for their update, or disclosure without the prior approval of the competent entity;

h) The non-publication of the required information, by the issuer of securities traded in the regulated market;

i) Breach of the inside information system, except when such breach is a crime.

2. The violation of any of the following duties is a serious offence:

a) Submitting the details, necessary for the information of the public, to the regulated market managing entity by the issuers of securities admitted to trade;

b) Informative link with other regulated markets;

c) Provision to the regulated market operator, by its members, of the information necessary for the proper management of the market;

d) Application for admission to trading in the regulated market of securities of the same category as those already admitted;

e) Submitting the information as required by law to the CMVM, by the issuer of securities admitted to trade in the regulated market;
f) Publication of the document consolidating annual information;

g) Disclosure of the information required under no. 2 of Article 134.

3. The lack of nomination of the following is a less serious offence:

a) A representative for relations with the market and the CMVM, by an entity with securities admitted to listing;

b) A representative before the operator of such market and the CMVM, on the part of a member of the regulated market.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 395
Operations

1. The carrying out of the following operations is a very serious offence:

a) In a given market, on securities not admitted to listing in that market or suspended or excluded from listing;

b) Not allowed or in conditions not allowed;

c) Without providing the required guarantees.

2. The following are serious offences:

a) The carrying out of operations without the intervention of a financial intermediary, when required;

b) The trade in a regulated market of forward operations, without the registration or the approval of the respective general standard clauses;

c) The carrying out of operations by members of the administration, management and supervisory body of financial intermediaries or the managing entities of the market, the settlement system and centralised securities systems, as well as employees, if they are precluded from being involved in such operations.

3. The violation of the duty to communicate to the CMVM operations of securities listed on the regulated market that have been executed outside the regulated market or in another regulated market situated
or operating in a Member State of the European Community is a less serious offence.

**Article 396**  
**Settlement systems**

The following are serious offences:

a) The creation, maintenance in operation or management of a settlement system, the suspension or closing of its activity, outside the cases or terms prescribed by law or regulation;

b) The assumption of the position of central counterpart by a non-authorised entity;

c) The admission of participants by the managing entity of the system without the requirements demanded by law;

d) The settlement of operations made in a regulated market in violation of the principles provided by law;

e) Failing to make a timely provision of securities or cash for the settlement of operations.

**Article 397**  
**Financial Intermediation Activities**

1. The execution of acts or the performance of financial intermediation activities without due authorisation or registration, or outside the scope of authorisation or registration, is a very serious offence.

2. The violation by entities authorised to perform financial intermediation activities, of any of the following duties, is a very serious offence:

a) To effect and maintain updated the daily register of operations;

b) To respect the rules governing conflicts of interest;

c) Not to effect operations which constitute excessive financial intermediation activity (churning);

d) To verify the legitimacy of those placing orders and adopt the steps which permit to establish the time of reception of the order;
e) To reduce in writing or record the orally received orders;

f) To respect the rules of priority in the transmission and execution of market orders;

g) To provide clients with the necessary information;

h) Not to execute, without the authorisation of or the confirmation from the client, contracts in which the client is a counterpart.

3. The violation of the information duties regarding qualifying holdings in a company authorised to perform financial intermediation activities in Portugal is a very serious offence

4. The violation by entities, authorised to exercise financial intermediation activities, of any of the following duties is a serious offence:

a) Preserve documents within the time legally demanded;

b) Prepare rules of procedure;

c) Accepting orders;

d) Refusing orders;

e) Register with the CMVM the general standard contractual clauses used in contracts.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 398
Professional duties

It is a very serious offence the violation of any of the following duties:

a) Confidentiality;

b) Asset separation;

c) The non-use of securities, other financial instruments or cash outside the cases prescribed by law or regulation;

d) The defence of the market.
Article 399
The CMVM’s rules

1. It is a serious offence not to comply with the CMVM’s legitimate orders or writs transmitted in writing to recipients.

2. If the non-compliance described in sub-article 1 occurs and the CMVM notifies the recipient to comply with the order or writ and the non-compliance continues, a fine corresponding to a very serious offence will apply, provided the CMVM's notification contains an express indication that in case of non-compliance, this sanction will be imposed.

Article 400
Other offences

The violation of duties not specified in the previous articles but set out in this Code or other law or regulation described in Article 388(2) are:

a) Less serious offences; or

b) Serious offence, whenever the agent is a financial intermediary or any of the managing entities described in Article 388(2) (b), in the performance of their respective activities;

c) A very serious administrative infraction, in the case of a breach of a duty of secrecy in respect of the CMVM’s supervisory activities.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Section II
General provisions

Article 401
Liability for administrative offences

1. Individuals, legal entities, independently of the regularity of their incorporation, companies and associations without a legal status may be liable for the offences set out in this Code.

2. Legal individuals and entities described in the above sub-article are liable for the offences set out in this Code when actions have been practised, in the exercise of their respective functions, or in their name, or on their behalf, by members of their management bodies, agents, representatives or employees.
3. Unless an even greater sanction is applicable to the individual by another legal provision, the sanction set out for the author of the act, especially mitigated, will be imposed on the members of the management bodies of companies and similar entities as well as those responsible for the management or supervision of areas of activity where the offence takes place, whenever such individuals, being aware or in a position where they should have been aware of the offence, do not adopt measures to end the same immediately.

4. The liability of companies and similar entities does not exclude the individual liability of the respective agents.

**Article 402**

*Forms of offences*

1. The administrative offences set out in this Code are punishable when same is of an intentional or negligent nature.

2. The attempt to practice any of the administrative offences described in this Code is punishable.

**Article 403**

*Fulfilment of the violated duty*

1. Whenever the administrative offence results from the omission of a duty, the payment of a fine or fulfilment of an accessory sanction, the infringer is not released from fulfilling the obligation, if this is still possible.

2. The CMVM may subject the infringer to an injunction to comply with the duty owed.

3. If the injunction is not executed in the set period of time, the agent incurs the sanction prescribed for very serious offences.

**Article 404**

*Accessory sanctions*

1. In addition to fines and notwithstanding those set out in the General Legal Framework applicable to administrative offences, the following accessory sanctions might be imposed on those responsible for any offence:
a) Apprehension and loss of the object of the offence, including the benefit obtained by the infringer by the practice of the offence;

b) Temporary suspension of the exercise by the infringer of the profession or the activity to which the offence refers;

c) Disqualification from the exercise of the function of administration, management, control, supervision and, in general, representation of any financial intermediary within the scope of any or all activities of intermediation in securities or other financial instruments;

d) Publication by the CMVM, at the expense of the infringer and in places suitable for the accomplishment of the aims of general prevention of the legal system and protection of securities or other financial instruments markets, of the sanction imposed in view of the offence;

e) Revocation of the authorisation or cancellation of the registration necessary for the performance of the activities of financial intermediation in securities or in other financial instruments;

2. The sanction described in paragraphs b) and c) of the sub-article above may not have a duration greater than five years from the definitive sanctioning decision.

3. The publication described in sub-article 1(d) may be made completely or partially, in accordance with the CMVM’s decision.

**Article 405**

**Determination of the applicable sanction**

1. The determination of the actual fine and accessory sanctions is done pursuant to the material illegality of the act, agent's negligence, benefits obtained and prevention requirements. Whether the agent is an individual or legal entity, is also taken into account.

2. In the determination of the material illegality of the act and the negligence of legal entities and similar entities, the following circumstances, among others, are taken into consideration:

   a) The danger or damage caused to investors or the market of securities or other financial instruments;

   b) The occasional or repeated nature of the offence;
c) The existence of the concealment of acts which tend to impair discovery of the offence;

d) The existence of acts by the agent, on own initiative, aiming at, repairing the damages or preventing the dangers caused by the offence.

3. In the determination of the material illegality of the act and negligence of individuals, beside those described in the sub-article above, the following circumstances are taken into consideration:

a) Level of responsibility, scope of functions and role in the said legal entity;

b) Intention to obtain, for itself or another entity, an illegitimate benefit or damages caused;

c) The special duty of not committing the offence.

4. In the determination of the applicable sanction, the agent's economic situation and previous conduct are also taken into consideration.

**Article 406**

**Fines, costs and economic benefits**

1. When offences are also attributable to entities described in Article 401(2), these entities are jointly responsible for the payment of fines, costs or other burdens associated with the sanctions imposed in the offence proceedings, for which the individual agents described in the same sub-article are responsible.

2. Payments resulting from the imposition of fines and economic benefit in administrative offence proceedings revert totally to the Investors’ Compensation Scheme, independently of the date on which the condemnatory decision becomes final or transits in rei judicata.
Article 407
Subsidiary law

Except when otherwise prescribed by this Code, the General Legal Framework applying to administrative offences applies to offences set out in this Code as well as to the procedures applying to same.

Section III
Procedural provisions

Article 408
Jurisdiction

1. The CMVM’s Executive Board has jurisdiction over the proceedings of offences, imposition of sanctions and additional sanctions as well as measures of precautionary nature set out in this Code, without prejudice to the possibility of delegation in accordance with the law.

2. The CMVM may request delivery of or seize, freeze or inspect any documents, valuables or items related to offences, irrespective of their form, and seal items not seized in the facilities or persons or entities subject to its supervision, to the extent the same are necessary for investigating or supporting any proceedings entrusted to it.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 409
Appearance of witnesses and experts

1. The CMVM imposes a pecuniary sanction of up to 10 account units to witnesses and experts that do not appear on the designated day, time and place for due process, without justifying their absence immediately or within five working days.

2. Payment is effective within 10 days of the notification, under threat of enforced payment proceedings being instituted.

Article 410
Absence of the defendant

The failure of the defendant to appear does not prevent offence proceedings from continuing.
Article 411
Notifications

1. Notifications in the offence processes are made by registered letter with an acknowledgement of receipt, directed at the headquarters or domicile of the recipient and its legal representative, or individually, and if necessary, by means of the police authorities.

2. The notification to the defendant of pleadings that represents an administrative offence, as well as the decision to impose the sanction, accessory sanction or some interim measures of protection, is made in accordance with the above sub-article or, when the defendant is not found or refuses to accept the notification, by an announcement published in one of the local newspapers in the locality of its headquarters or last known residence in the country or, in the absence of newspapers or if the defendant does not have headquarters or residence in the country, in one of Lisbon’s daily newspapers.

Article 412
Interim measures of protection

1. When it becomes necessary for the instruction of proceedings, the defence of the securities or other financial instruments market or the protection of the investors' interests, the CMVM may order one of the following measures:

   a) The preventive suspension of one or some of the activities or functions carried out by the defendant;

   b) The exercise of functions or activities subject to certain conditions, necessary for this exercise, namely, compliance with the duty to inform;

   c) Seizure or freezing of valuables, irrespective of the place or organisation in which the same are located.

2. The order described in the sub-article above comes into force, according to the following cases:

   a) Until its revocation by the CMVM or final judgement;

   b) Until enforcement of an ancillary sanction equivalent to the measures contemplated in the preceding number.
3. The order of preventive suspension may be published by the CMVM.

4. When, in accordance with sub-article 1, total suspension of the activities or functions carried out by the defendant is determined and same is convicted, in the same process, to an accessory sanction which consists of the disqualification or suspension of carrying out the same activities or functions, the time served in preventive suspension will be fully deducted in the execution of the accessory sanction.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

**Article 413**

**Notice procedure**

1. When the administrative offence consists of a reparable irregularity that does not result in losses to investors or securities or other financial instruments markets, the CMVM may warn the infringer, notifying same to rectify the irregularity.

2. If the infringer does not rectify the irregularity within the required time period, the proceeding of the offence continues its normal procedure.

3. When the irregularity is rectified, the process is closed and the notice becomes final as a final sentence, and the same act may not be considered again as an offence.

**Article 414**

**Summary proceeding**

1. When the reduced gravity of the offence and the reduced negligence of the agent so justifies, the CMVM may, before formally accusing the defendant, issue a warning or impose a fine which should not exceed three times the minimum limit set out for the offence.

2. It may, also, be determined that the defendant adopts the legally required behaviour within the time period set by the CMVM.

3. The decision set out in sub-article 1 is in writing and contains the identity of the defendant, the brief description of the alleged facts, the reference to the legal provisions violated and concludes with the warning or indication of the fine actually imposed.
4. The defendant is notified of the decision and informed that it has the right to refuse, within five days, and of the consequences set out in the following sub-article.

5. The defendant's refusal or silence during this time, the requirement of any supplementary action, non-compliance with the provision set out in sub-article 2 or the non-payment of the fine within 10 days of the notification described in the sub-article above determines the immediate continuation of the offence process, with the decision described in sub-articles 1 and 3 having no effect.

6. The defendant having proceeded with the compliance set out in sub-article 2 and the payment of the fine imposed, the decision becomes final as a condemnatory decision, and the same fact may not again be considered as an offence.

7. The decisions given in summary processes are not subject to judicial appeal.

**Article 415**

**Suspension of the sanction**

1. The CMVM may suspend, totally or partially, the execution of the sanction.

2. The suspension may be conditional to the execution of certain obligations, namely those considered necessary for the regularisation of illegal situations, the reparation of damages or the prevention of dangers for the securities or other financial instruments markets or investors.

3. The suspension time period of the sanction is set between 2 (two) and 5 (five) years, calculating from the expiry date of the time period of the legal rejection of the condemnatory decision.

4. The suspension does not cover costs.

5. The suspension time period having elapsed without the defendant having practised any criminal act or administrative offence as set out in this Code, and without any violation of the obligations that had been imposed on same, the conviction is without effect; on the contrary the imposed sanction is executed.
Article 416
Judicial appeal

1. Once the appeal against the CMVM’s decision is received, same is forwarded to the Public Prosecutor within 20 working (twenty) days, where other allegations may be joined.

2. Without prejudice to Article 70 of the Decree Law No. 433/82 dated 27 October, the CMVM may still join other details or information that is considered relevant to the said decision as well as offer evidence.

3. The court may decide without a hearing, if there is no opposition from the defendant, the Public Prosecutor or the CMVM.

4. If there is a hearing, the court will decide, based upon the evidence presented at the hearings as well as during the administrative phase of the offence procedure.

5. The CMVM may participate in the hearing by appointing a representative for this purpose.

6. The waiver of the indictment by the Public Prosecutor depends on the CMVM’S consent.

7. The CMVM shall be entitled to autonomously appeal against decisions issued in the context of proceedings for annulment permitting such appeal, as well as to reply to any appeals lodged.

8. The prohibition of reformatio in pejus shall not apply to proceedings relating to administrative infractions initiated and decided in the terms of this Code, and this information must be contained in all final decisions permitting annulment or appeal.

(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)

Article 417
Jurisdiction in recognising judicial appeal

The Lower Criminal Court of Lisbon has the jurisdiction to recognise the judicial appeals, reviews and execution of the CMVM’s decisions in the administrative offence processes, or any other measures as determined by the CMVM within the scope of the same process that is legally subject to appeal.
Article 418
Statute of Limitations

1. The statute of limitations for administrative offences proceeding is five years.

2. The statute of limitations for sanctions imposed is five years and is calculated from the day on which the decision that determined its imposition becomes final or transits in *re judicata*.

Chapter III
Common provisions of crimes and administrative offences

Article 419
Personal details

1. The individual responsibility of the agents is not hindered by the fact that the legal type of offence requires certain individual details and these are only verified in the legal individual, a similar entity or one of the agents involved, nor the fact that, it is required that the agent practises the act in its own interest, with the agent having acted in the interest of others.

2. The invalidity or nullity of the act that is the basis of the actions of the agent in the name of another does not hinder the application of the provisions of the previous sub-article.

Article 420
Concurrence of offences

1. If the same circumstances simultaneously constitute a criminal and an administrative infraction, the indicted shall be held liable for both offences, and separate proceedings, to be determined by the competent authorities, shall be initiated, without prejudice to the provisions of the following number.

2. In the cases contemplated in paragraph i) of no. 1 of Article 394, when the circumstances that may simultaneously constitute a criminal and an administrative infraction are imputable to the same perpetrator on the same basis of subjective imputation, only the criminal proceedings shall apply

*(Amended by Article 2 Decree-Law No. 52/2006 of 15th March)*
Article 421
Duty to notify

The competent authority for the imposition of accessory sanctions for the revocation of authorisation or cancellation of the registration, if same is also not the competent entity for the practice of these acts, should communicate to the latter the crime or offence concerned, together with specific facts, imposed sanctions and status of the process.

Article 422
Dissemination of decisions

1. Upon expiry of the period to challenge the decision before the courts, a decision by the CMVM that convicts the perpetrator of one or more very serious offences shall be disseminated through the information system referred to in Article 367, by means of an extract prepared by the CMVM or in full, even if its annulment by the courts has been mentioned, in which case these circumstances shall be expressly mentioned.

2. Any court decision that confirms, alters or repeals a decision by the CMVM or the lower court in the sense of conviction shall be immediately notified to the CMVM and must be disclosed in the terms of the preceding number.

3. The provisions of the preceding numbers shall not apply to fast-track summary proceedings where suspension of the sanction applies, the illegality of the acts or the guilt of the perpetrator are reduced or when the CMVM considers that disclosure of the decision may be detrimental to investors’ interests, severely affect the financial markets or cause actual damages to persons or entities involved, clearly disproportionate to the seriousness of the acts imputed.

4. Irrespective of a final judgement having already been obtained or not, any court decisions concerning crimes against the market shall be disclosed by the CMVM in the terms of nos. 1 and 2.

(Amended by Article 3 Decree-Law No. 52/2006 of 15th March)