Statute of the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários - CMVM)


Chapter I
Nature, Legal Requirements and Headquarters

Article 1
Nature

The Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários) hereinafter referred to as the CMVM is a legal person governed by public law, and endowed with administrative and financial independence and its own assets.

Article 2
Legal Framework

1. The CMVM is governed by this Statute, the Securities Code and, with regard to matters not provided for or incompatible with the provisions set out therein, by the rules applying to public sector entities.

2. The CMVM falls under the responsibility of the Minister of Finance, pursuant to this Statute and the Securities Code.

Article 3
Headquarters and Offices

The CMVM has its headquarters in Lisbon and an office in Porto, and may set up other offices or forms of representation.

Chapter II
Powers and Duties

Article 4
Powers and Duties

1. The following are conferred on the CMVM:

a) The regulation of the securities markets and other financial instruments, the activities exercised by entities subject to its supervision, public offers of securities
and other matters provided for in the Securities Code and other, complementary legislation;

b) The exercise of supervisory functions, under the terms of the Securities Code;

c) The promotion and development of the securities market and markets of other financial instruments and financial intermediation activities;

d) Assisting the Government and the Minister of Finance at the request of same or on its own initiative, in setting out the policy related to securities and other financial instruments, respective markets and the entities intervening therein;

e) Carrying out other functions conferred on it by law.

2. Within the scope of its activities, the CMVM cooperates with the following:

a) Other national authorities responsible for the supervision and regulation of the financial system;

b) With authorities from other States responsible for supervision and regulation relating to securities and the financial system in general;

c) With international organisations of which it is a member.

Article 5
Market Promotion

The CMVM, in exercising its duty to promote the market should:

a) Propagate and encourage knowledge of the applicable legal and regulatory provisions;

b) Develop, encourage or sponsor, by itself or in conjunction with other entities, studies, surveys, publications, training and other similar initiatives

Chapter III
Boards

Section I
General Provisions

Article 6
Boards

The CMVM’s Boards are the Executive Board, the Supervisory Committee and the Advisory Board.

Article 7
Representation of the CMVM

1. In the practice of legal acts, the CMVM shall be represented by the Chairman of the Executive Board or by two Members of the Executive Board, or, in the context of a Power of Attorney, by a representative or representatives appointed by the Chairman or two Members of the Executive Board.

2. Notices addressed to the CMVM shall become effective upon its possession or that of any Member of its Executive Board or any employees designated by the Board for said purpose.
Section II
Executive Board

Article 8
Composition, Appointment and Duration of Mandate

The Executive Board is comprised of a Chairman, a Vice-Chairman and three Board Members, appointed by a Council of Minister's Resolution on proposal by the Minister of Finance. The Board's mandate is for a period of five years. The members thereof are persons of recognised fitness and propriety, independence and competence.

Article 9
Powers

The Executive Board exercises the powers necessary for developing the CMVM's functions and is particularly responsible for the following:

a) Defining the CMVM's general policy;

b) Drawing up an annual programme of activities and budget for the CMVM, and submitting same together with a statement of opinion from the Supervisory Committee for the Minister of Finance's approval;

c) Drawing up a report on the activities carried on by the CMVM each financial year, its balance sheet and annual management accounts, and submitting said documents, by 31 March of the following year, together with a statement of opinion from the Supervisory Committee, for approval by the Minister of Finance, and publishing said documents in the Official Gazette within 30 days of approval;

d) Drawing up a report on the situation of the securities markets, publishing it and presenting it to the Minister of Finance by 30 June each year;

e) Complying with and enforcing the resolutions of the Council of Ministers and decisions by the Minister of Finance reached in exercising his powers;

f) Organising the staff and managing the CMVM's human resources;

g) Managing the CMVM's assets;

h) Making decisions on the acquisition, disposal, leasing or renting of property and the leasing of property for the premises, equipment and functioning of the CMVM;

i) Making decisions on the acquisition, disposal and leasing of property to the same end, with the prior authorisation from the Minister of Finance;

j) Drawing up contracts for the provision of any type of service and authorising the payment of expenses;

l) Collecting income;

m) Making decisions regarding the opening or closure of regional offices and other forms of representation;

n) Approve regulations and establishing other rules, according to the powers invested in the CMVM by law, including the definition of the fees referred to in this Statute, except when the Minister of Finance has the power to do so;
o) Approving general recommendations aimed at entities subject to its supervision and general statements of opinion on relevant questions put to it;

p) Formally charging or similarly providing factual evidence to back up allegations and applying fines and ancillary sanctions in the case of administrative infraction proceedings;

q) Determining the opening of preliminary inquiries relating to crimes against the market, or conclusion thereof;

r) Carrying out other acts of supervision attributed by law to the CMVM;

s) Making decisions on any other matters attributed to the CMVM by law.

**Article 10**

**Powers of the Chairman**

1. The Chairman of the Executive Board has the following powers:

   a) To represent the CMVM in acts of any nature;

   b) To convene the Executive Board and preside over its meetings;

   b) To convene the Advisory Board and preside over its meetings;

   d) To encourage the convening of the Supervisory Committee, whenever it deems this appropriate;

   e) To direct all activities and staff of the CMVM, and to ensure that these function properly;

   f) To adopt resolutions and carry out acts which, depending on the decision of the Executive Board, may not wait for this Board to meet, due to their nature and urgency.

2. The resolutions and acts referred to in f) of the preceding paragraph must be brought before the Executive Board for its ratification at the next meeting.

3. The Vice-Chairman of the Executive Board shall assist the Chairman in the execution of his duties, shall substitute him during his absence or in the event of any impediments and exercise any other duties which are delegated to him pursuant to the following Article.

**Article 11**

**Delegation of Powers**

1. The Executive Board may delegate, to one or more of its members, directors or other responsible persons, pursuant to the CMVM’s Internal Regulation, those acts stipulated in Article 9/f), g), h), j), l) and o) and in the application of sanctions in cautionary proceedings and summary proceedings.

2. The acts referred to in Article 9/r) may also be delegated, with the exception of the following:

   a) Authorisation for the exercise of the activity of independent investment adviser;

   b) Prior registration for the exercise of intermediation activities;
c) Registration of management entities of markets, multilateral trading facilities and the respective markets and facilities managed by same, and in addition, registration of management entities of central securities depositaries, settlement systems and guarantee funds;

d) Registration of takeover bids, and the granting of any authorisation relating to same;

e) The registration of the rules referred to in Article 372 Securities Code;

f) The registration or approval of the standard clauses of forward transactions and stabilisation agreements;

g) The refusal or denial of the acts referred to in the preceding paragraphs;

h) The signing of memoranda of understanding;

i) The acts referred to in Article 361/2e) & f) Securities Code;

j) The acts referred to in paragraph 3/b), d) and e) of the following Article.

3. Without prejudice to the provisions of paragraph 3 of the preceding Article, the Chairman of the Executive Board may delegate the powers envisaged in paragraph 1/a), c) and d) of the same document.

4. The delegation of powers should be stated in the Minutes of the meeting wherein the decision is made and published in the 2nd Series of the Official Gazette and the CMVM Bulletin.

**Article 12**

**Meetings and Resolutions**

1. The Executive Board normally meets at a frequency set out in the Internal Regulation and, on an extraordinary basis, whenever the Chairman convenes it, at his discretion or at the request of two Members of the Executive Board or at the request of the Supervisory Committee.

2. The Executive Board makes valid decisions when the majority of its members are in attendance.

3. Resolutions are adopted by the majority of the votes of the members in attendance, which must include the vote of the Chairman under the following circumstances:

a) The approval of the CMVM Regulations, Recommendations or General Statements of Opinion;

b) The approval of draft legal documents to be presented to the Government or Orders to be presented to the Minister of Finance;

c) The matters envisaged in Article 9/a), b) and h);

d) The opening, suspension or closure of markets, multilateral trading facilities, central securities depositaries and settlement systems;

e) The authorisation or revocation of authorisation for management entities of the systems referred to in the previous sub-paragraph.
4. Minutes of the Executive Board’s meetings shall be drawn up and signed by the Members in attendance.

**Article 13**  
**Statute of Members of the Executive Board**

1. The Statute of Public Management shall apply to the Members of the Executive Board of the CMVM, with the details laid down in this document.

2. During their mandate, the Members of the Executive Board are not permitted to do the following:

a) Exercise any other public functions or professional activity, except for the activity of University Lecturing, provided that this is authorised by the Minister of Finance and does not jeopardise the exercise of their duties;

b) Carry out transactions on securities, directly or indirectly, except for Public Funds or Retirement Savings Funds.

3. Members of the Executive Board holding shares on the date of their appointment should dispose of same before taking office or declare same in writing to the Executive Board, only disposing of same when authorised to do so by the Minister of Finance.

4. The remuneration and benefits offered to Board Members are laid down in a Ministerial Order from the Minister of Finance, and may not be less than the highest amount permitted by law to office holders in Administrative Boards of public sector entities and the other financial supervisory authorities.

**Article 14**  
**Organisation of Staff**

1. By means of the Internal Regulation, the Executive Board shall define the organizational structure of the CMVM, the functions and powers of its staff, the respective staff framework, the general rules to be complied with in the carrying out of its activities and all other points which shall become necessary for the proper functioning of the Commission.

2. The entrusting of the management responsibilities to members of the Executive Board or employees appointed especially for this purpose entails the delegation of the powers necessary for the said management.

**Article 15**  
**Cessation of Functions**

1. The Members of the Executive Board shall cease to exercise their duties as follows:

a) Termination of the period for which they were appointed;

b) For reasons of permanent disability or incidental incompatibility of the office holder;

c) Due to resignation;

d) On dismissal decided by a resolution adopted by the Council of Ministers, due to serious errors proven to have been committed by the holder in the exercise of his/her functions or failure to comply with any duty inherent to the post.
2. Violation of the provisions of Article 13/2 shall be considered a serious administrative infraction.

3. The end of the mandate period of each Executive Board Member is independent of the term of the remaining Members.

Section III
Supervisory Committee

Article 16
Composition and Mandate

1. The Supervisory Committee is comprised of three Members, which are appointed by the Minister of Finance, one of which is an official Auditor.

2. The instrument of appointment includes the name of the Chairman of the Commission.

3. The Members of the Supervisory Committee have a three-year mandate.

Article 17
Powers

1. The responsibilities of the supervisory committee are as follows:

   a) To monitor and oversee the financial management of the CMVM;

   b) To appraise and issue a statement of opinion on the CMVM’s annual budget;

   c) To appraise and issue a statement of opinion on the CMVM’s annual report and accounts;

   d) To supervise the organisation of the CMVM’s accounts and compliance with the legal requirements and internal regulations applicable to the budget, accounts and treasury, and to inform the Executive Board of any deviations from the norm or anomalies which arise;

   e) To express its opinion on any matter coming within its remit, at the request of the Executive Board.

2. The Supervisory Committee may:

   a) Request, from the Executive Board or staff of the CMVM, information, clarification or any other details necessary for the proper exercise of their duties.

   b) Convene meetings with the Executive Board, in order to analyse matters coming within the scope of its remit, whenever the nature or importance of the matter in question justifies such action.

Article 18
Meetings

1. The Supervisory Committee shall meet on an ordinary basis according to the frequency laid down in the Internal Regulations and on an extraordinary basis whenever convened by the Chairman, on his initiative or at the request of any of the Committee Members or of the Chairman of the Executive Board.

2. Minutes of the meetings of the Supervisory Committee shall be drawn up and signed by each of the Members in attendance.
Article 19
Statute

1. The Members of the Supervisory Committee have the same rights and duties as the holders of office in the Supervisory Boards of public sector entities.

2. The provision of Article 13/3 shall apply to the Members of the Supervisory Committee.

Section IV
Advisory Board

Article 20
Composition

1. The Advisory Board is presided over by the Chairman of the Executive Board of the CMVM and comprised of:

   a) One Member of the Board of Governors of the Portuguese Central Bank (Banco de Portugal - BdP);

   b) One Member of the Executive Board of the Portuguese Insurance Institute (Instituto de Seguros de Portugal - ISP);

   c) One Member of the Executive Board of the Portuguese Treasury & Government Debt Agency (Instituto de Gestão da Tesouraria e do Crédito Público IP - IGCP);

   d) Two Directors from the management entities of markets located or operating in Portugal;

   e) One Director from the management entity of the settlement system or the Central Securities Depositary;

   f) One Director from the entity that carries out functions as a Central Counterparty located or operating in Portugal;

   g) Two representatives from securities’ issuers;

   h) Two representatives of investors, with at least one being a representative of retail investors;

   i) Four representatives of the various types of financial intermediaries;

   j) One representative from the management entity of the multilateral trading facility;

   l) One representative from the Institute of Official Auditors.

2. The Executive Board of the CMVM may:

   a) Appoint, as Members of the Advisory Board, up to a maximum of three representatives of entities carrying out their activity within the scope of other sectors relevant to the securities markets or individual entities with recognised merit in the area of securities;

   b) Invite persons or representatives from institutions to attend meetings of the Advisory Board, without voting rights, if it considers the contribution of these persons to be important to the matters to be discussed at each meeting.
3. The Advisory Board shall be considered to be constituted whenever at least two thirds of the persons referred to in paragraph 1 have been appointed.

**Article 21**

**Nomination**

1. The members of the Advisory Board shall be appointed by the entities which they represent, or, in the cases referred to in paragraph 1/d) to h) of the preceding Article, by the associations in question.

2. One of the entities referred to in paragraph 1/f) of the preceding Article should be a securities’ issuer which is listed on the stock market for spot transactions, on the index representing securities with the highest market capitalisation.

3. If there is no agreement on the appointment of the persons referred to in paragraph 1/d) to h) of the preceding Article, the Executive Board of the CMVM shall appoint the Members from among persons proposed by each of the entities involved.

**Article 22**

**Mandate**

Each of the Advisory Board’s Members shall have a three-year mandate and may be substituted, until the end of the term of the mandate, by the entity which appointed that member.

**Article 23**

**Powers**

The Advisory Board is a consultative and advisory body which reports to the Executive Board on matters coming within the scope of the CMVM’s remit, and is responsible for the following, namely:

a) Expressing its opinion on matters with regard to which the Executive Board consults it;

b) Presenting recommendations and suggestions to the Executive Board, on its own initiative, with regard to matters coming within the scope of the CMVM’s remit.

**Article 24**

**Meetings and Resolutions**

1. The Advisory Board shall meet on an ordinary basis according to the periodicity set out in its Internal Regulations, and on an extraordinary basis when convened by the Chairman, on his initiative or at the request of one quarter of its Members.

2. The Advisory Board shall decide by a simple majority of votes of those Members present. At least half of the Board Members must be present at the meetings.

3. The Chairman of the Advisory Board does not have voting rights.

4. Minutes shall be drawn up of every meeting of the Advisory Board and signed by the Chairman and Secretary, the latter being appointed by the Executive Board.
Article 25
Remuneration

The Advisory Board’s Members may be remunerated by means of an attendance fee for a sum to be established by the Minister of Finance, according to the CMVM’s proposal.

Chapter IV
Financial System

Article 25-A
Fees

1. Fees are due as a consideration for acts practiced by the CMVM and for the services it provides.

2. The fees referred to in the preceding paragraph are payable as follows:

a) By parties for which any acts or events are carried out by the CMVM, as laid down by law or regulation, including acts of registration, authorisation, waiver, approval, recognition, declaration, acknowledgment of communications, copies or certificates;

b) By entities subject to registration with the CMVM, as a consideration for services of maintaining and updating of records;

c) By entities subject to the CMVM’s jurisdiction, as a consideration for services of continuous or prudential supervision by the CMVM, including that of financial intermediaries, markets and respective management entities, and the management entities of settlement systems and Central Securities Depositary;

d) By those subject to the acts and activities of supervision carried out by the CMVM on asset management services, be this collective or individual, including the activities of the respective custodians, or any other investment services and ancillary investment services or any other activity subject to supervision by the CMVM;

e) By any party disclosing information to the market, including financial information or any other type provided by financial intermediaries, issuers, auditors registered with the CMVM and institutional investors, as a consideration for the supervision of this information or, as the case may be, its disclosure by the CMVM, through its Information Disclosure System;

f) By any other persons or entities, as a consideration for any other acts carried out or services provided by the CMVM.

3. The incurrence, subjection to and objective, the sum to be paid or rate, the periodicity, and, if applicable, any exemptions, either full or partial, and the maximum or minimum limits for the fee collection referred to in c) and d) of the preceding paragraph shall be established by a Ministerial Order issued by the Minister of Finance, with the benefit of opinion from the CMVM. The CMVM shall establish, by means of a regulation, the respective means of payment and settlement, and the time limits thereof.

4. On a proposal from the CMVM, the Minister of Finance may establish, by Ministerial Order, reductions of the amounts or rates and the maximum and minimum limits of all current levies with interim implementation.
5. The fees referred to in a), b), e) and f) of paragraph 2 shall be established by the CMVM in a regulation, which shall define the incurrence, subjection to and objective, the sum to be paid or rate, the periodicity, and, if this is the case, any exemptions, either full or partial, from the fees, and also the means and deadlines for payment and settlement.

Article 26
Income

1. Apart from others provided for by law, the following constitute sources of income for the CMVM:

a) The proceeds from the fees referred to in Article 25-A;

b) Expenses arising from administrative infraction proceedings;

c) Income from mandatory publications or any other type of publication in the respective Bulletin;

d) The proceeds from sales of or subscriptions to the CMVM Bulletin and of any research, papers or other editions for which it is responsible;

e) The proceeds of the disposal or transfer, under any circumstances, of the rights forming part of its assets;

f) Income arising from the financial application of its resources;

g) Allocations, subsidies and donations.

2. Management expenses from each financial year are brought forward to the following year.

3. The CMVM is prohibited from taking out loans of any kind.

Article 27
Expenses

The following are the CMVM’s expenses:

a) Operational costs;

b) The cost of acquisition, maintenance and upkeep of property or the use of services;

c) Subsidies for scientific investigation and the disclosure of findings on matters of relevance to the securities markets and other financial instruments and for any activity related to same.

Article 28
Financial and Asset Management

1. The CMVM’s financial activities are subject solely to the provisions of the present Statute and supplemented by the legal requirements applicable to the public sector entities.

2. The CMVM’s financial and asset management is governed in accordance with the principles of private law. The general legal requirements applicable to the financial activity of funds and independent services do not apply, with the latter including namely, the rules relating to the transfer and use of revenue and expenditure,
competing for funds and the duodecimal number system laid down in the budget and public service accounting legislation.

3. The CMVM's accounting plan is drawn up in accordance with the National Plan of Accounts and the legal requirements for public service accounting do not apply.

**Article 29**

**Enforced Fee Collection**

1. The procedures applicable to the enforced collection of Government debt shall apply to the enforced collection of fees payable to the CMVM.

2. For the purposes of the previous paragraph, debt certification issued by the CMVM in accordance with the provisions of Article 249 of the Tax Procedure Code, shall suffice as regards the execution of the proceedings.

**Chapter V**

**Personnel**

**Article 30**

**General Legal Requirements**

1. The general legal requirements applicable to individual working contracts shall apply to the CMVM personnel notwithstanding the omissions and contingencies related with the social security system to which the employee is subject being applicable to the specific rules, *mutatis mutandis*, of said framework.

2. The CMVM may be a party to instruments of collective labour regulation.

**Article 31**

**Statute**

1. The employment, remuneration and benefits afforded to the CMVM personnel, and the names of persons appointed as post holders and management and the cessation of their activities and the benefits inherent thereto, and supplementary remuneration are the responsibility of the Executive Board.

2. The CMVM employees are not permitted to exercise another professional activity, or provide services which could lead to conflicts of interests with their functions with the CMVM, with the exception of a university lecturer or temporary secondment to a government entity, if so authorised by the Executive Board.

3. The CMVM employees are not permitted to carry out transactions on securities or financial instruments or enter into or modify or terminate any financial intermediation contract, be this on their own behalf or on behalf of a third party, directly or indirectly, except under the following circumstances:

a) If the transactions are on public funds, retirement savings funds, education savings funds, treasury funds or money-market funds;

b) If written authorisation is obtained from the Executive Board.

4. The authorisation referred to in b) of the preceding paragraph shall only be granted if carrying out transactions or entering into, modifying or terminating the contracts in question do not affect the normal functioning of the market, do not lead to the use of inside information to which the employee gained access in the course of his/her functions and in the event of being sold after six months have expired since the date on which the securities or financial instruments to be sold were purchased.
5. The Executive Board of the CMVM approves the CMVM’s Internal Labour Regulation.

**Article 32**

**Mobility**

The employees that carry our public service functions and any employees, the administrative or managerial staff of public or private sector companies, may carry out functions at the CMVM, by resorting to the legal means applicable as concerns mobility.

**Article 33**

**Social Protection**

The CMVM employees that have commenced:

a) Before 1st January 2006, remain enrolled in the Public Service Pension Fund (Caixa Geral de Aposentações) and the Directorate General for the Protection of Civil Servants (ADSE - Direcção-Geral de Protecção Social aos Funcionários e Agentes da Administração Pública), unless enrolled in any other social security system on their admission date and opted to remain thus;

b) After 1st January 2006, must enrol in the Social Security system pursuant to the provisions of Law No. 60/2005, of 29th December.

2. The CMVM employees exercising their functions therein by means of a requisition or service commission shall maintain the social security scheme applicable to the administrative service from which they originated, in particular as regards pensions or retirement, subsistence and healthcare, and, those which are subscribers of Public Service Pension Fund must pay a contribution based on their current earnings if same are higher than those corresponding to their original post.

3. The members of the Executive Board are subject to the general Social Security system, except if they have been nominated by means of requisitions or service commission, in which case they shall be subject to the provisions of the preceding paragraph, and must also subscribe to the Public Service Pension Fund, and pay a contribution based on the remuneration corresponding to the original post.

4. With regard to employees qualifying for Directorate General for the Protection of Civil Servants, including those exercising functions on a temporary assignment or secondment basis, the CMVM shall contribute towards the financing of the Public Service Pension Fund by means of a legally established amount to be paid on a monthly basis to that institution, within the deadline laid down in Article 8/1 of the Pension Fund Statute.

5. The Executive Board may promote the constitution of a pension fund, or participation in a pre-existing fund, with a view to ensuring retirement provisions for the CMVM employees.

**Decree-Law No. 473/99**

**of 8th November**

**(Preamble)**

In Portugal, the appearance of the Securities Market Commission (Comissão do Mercado de Valores Mobiliários - CMVM) is inextricably linked to the recent
resurgence of the capital market. In truth, only from 1986, and influenced by accession to the European community, was the creation of a national securities market embodied, which development immediately led to the opening up of capital to public investment and its listing on the stock market, with a view to promoting the stability, efficiency, profundity and liquidity of the market. Then, in light of the anomalies arising in the market in 1987, 1988 saw the carrying out of studies aimed at revising the system in place at that time. The markets thus began to function with greater autonomy, and their denationalization, privatization and liberalisation were undertaken, leading to the reinforcement of the means of supervising and monitoring them, as a means of renewing the model adopted within the European Community.

These studies gave rise to the Securities Market Code, established by Decree-Law no. 142-A/91, of 10 April. Through publication of the Code, it was hoped to make the trend towards liberalisation compatible with the protection of the public interests in question, the defence of the market and the protection of investors. This would, in turn, lead to the intensification of the supervision and monitoring of the market and of agents operating therein. Hence, the CMVM was established in order to implement the said goals. It is a professional and specialised public entity, which enjoys a maximum level of independence as regards the administering of its authority, and entrusted with the supervision and monitoring of the primary market and the secondary securities markets, and also the regulation of any matters which are not exceptional or expressly reserved for the Ministry of Finance’, as envisaged in the Securities Market Code.

The CMVM was thus to assume functions which had previously fallen within the remit of the Minister of Finance. But not just that, however. The CMVM also came to substitute the previous role of the Auditor-General of the Stock Market, which had been created in 1987. One of its duties was to guarantee the effective inspection and supervision of the market – one which had also previously been entrusted to the Minister of Finance – and to monitor the market and ensure the circulation of reliable information.

At present, the superintendence of the financial market and the coordination of the activities of agents acting therein fall under the remit of the Minister of Finance, in accordance with the Government’s economic and social policy. Apart from the above, however, the various economic and financial agents are also subject to supervision, of a prudential nature, by either the Portuguese Central Bank (Banco de Portugal – BdP), the CMVM or the Portuguese Insurance Institute (Instituto de Seguros de Portugal - ISP), depending on the case.

In the short time since its establishment, the CMVM has demonstrated the capacity to supervise and regulate the financial markets, contributing towards the efficiency of its tripartite supervisory system. In any case, the aim of greater coordination between the financial supervision authorities depends on the non-existence or reduction of factors leading to negative conflict between powers or weakening supervision, in particular situations of consolidated supervision, whereby it is important that such powers are exercised equally throughout the entire financial system, observing criteria which are more and more harmonised and present comparable levels of reliability and confidence, relative to the aforementioned three institutions and the areas for which they are responsible. This applies not only to the national perspective, but also as regards the level of cooperation and international exchange of information. This reality does not, however, imply any reduction of independence, but merely entails the reinforcement of co-ordination, which may in the future enjoy regulatory or operational reinforcement, at the discretion of the institutions in question.

The CMVM is a public law legal person, which enjoys administrative and financial independence and its own assets, and is under the responsibility of the Minister of
Finance. Its Boards include an Executive Board, a Supervisory Committee and an Advisory Board. Apart from this, its jurisdiction extends throughout the national territory and its functions basically include the regulation of the securities markets and financial activities carried on therein, the supervision of the securities markets and the activities of financial intermediaries, the monitoring of compliance with the legal duties which these entail, be it on entities charged with the organisation and management of the securities markets, or on financial intermediaries, issuing and other entities, and the promotion of the national securities market, contributing towards its development, as well as to its competitiveness in a European and international forum, and encouraging its transparency, stability, profundity, efficiency and liquidity.

Notwithstanding the reformulation of the said Statute embodied herein, this does not, from a substantive point of view, constitute a break with the general line of regulation. On the contrary, this document maintains the essentials of the legal requirements established in the provisions of Articles 6 to 46 of the Securities Market Code and its Internal Regulation. However, certain alterations are made in terms of the terminology used, imposed by the complementary nature of the Statue relative to the Portuguese Securities Code and related documents, as is the case of the draft document regarding the operation of stock and other markets.

As regards the legal requirements applicable to the CMVM, the conjunct between the rules laid down in public law and those established under private law is hereby clarified, creating a link between the interests of the public and those of the financial discipline, with the advantages gleaned by rendering the operations and management of the Commission more flexible.

Finally, the opportunity is also taken to define and update the composition of the National Securities Market Council. A consultative body of the Ministry of Finance, it operates under the auspices of the High Council of Finance (Conselho Superior de Finanças), and in its operations has proven the opportuneness and usefulness of its reflections and observations.

Thus, pursuant to Article 198/1/a) of the Constitution, the Government hereby decrees the following:

**Article 1**

Statute of the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários - CMVM)

The Statute of the Portuguese Securities Market Commission (CMVM), established by Decree-Law No. 142-A/91, of 10 April, which forms an integral part of this document, is hereby approved.

**Article 2**

The National Securities Market Council (Conselho Nacional do Mercado de Valores Mobiliários)

1. The National Securities Market Council is a consultative body which reports to the Minister of Finance, and operates under the auspices of the High Council of Finance.

2. The National Securities Market Council is convened by the Minister of Finance and is charged with issuing opinions on the following matters:

   a) The general policies of the Government in relation to the securities market or having significant impact on them;
b) Legal documents relating to the securities market;

c) The situation and development of the securities market.

3. The National Securities Market Council is presided over by the Minister of Finance. Its Vice-Chairman is the Secretary of State for Finance, appointed for said purpose by the Minister of Finance and comprised of the following voting members:

a) The Governor of BdP;

b) The Chairman of the CMVM’s Executive Board;

c) The Chairman of the ISP;

d) The Director-General of the Treasury;

e) The Chairman of the Executive Board of the IGCP;

f) The Chairmen of the Boards of Directors of the management entities for the stock markets, other regulated markets, settlement systems and centralised securities depositaries;

g) Three representatives of securities issuers;

h) One representative from each category of financial intermediary;

i) One representative of insurance firms;

j) One representative of pension fund management companies;

l) One representative for associations of retail investors;

m) Up to three individual entities with recognised competence and fitness, appointed by the Minister of Finance.

4. The entities referred to in sub-paragraphs g) to l) are appointed by the respective associations, or, if no association exists, or more than one exists, by the Minister of Finance, from among the persons indicated.

5. The Minister of Finance may invite individual entities to participate in meetings of the Council, provided that these are of recognised competence and experience in the matters to be discussed at such meetings.

6. If the voting members of the Council are absent or indisposed, they may be replaced, pursuant to the terms of the statute or those laid down by the organic law of the entity represented, or by a substitute indicated in the act of appointing the effective representative.

7. The Office of the Minister of Finance shall ensure the means and technical support necessary to the Council.

Article 3

Entry into force

This document shall come into force on 1st March 2000.

Seen and approved by the Council of Ministers on 9th September 1999 - António Manuel de Oliveira Guterres - António Luciano Pacheco de Sousa Franco.
Promulgated on 15th October 1999.

For publication.

President of the Republic, JORGE SAMPAIO

Countersigned on 21st October 1999.

The Prime Minister, António Manuel de Oliveira Guterres.

Decree-Law No. 169/2008 of 26th August

For the third time the CMVM Statute, approved by Decree-Law No. 473/99, of 8th November, is being amended by the present Decree-Law, which is essentially seeking to adjust the CMVM’s financing system.

With this amendment, it is sought to adapt the financing system of this institution to the requisite, on the one hand, of making the Portuguese capital market more competitive with respect to funds required from market players in order to cover the inherent supervisory costs and on the other hand, of ensuring that said adaptation does not disrupt the financial stability of the CMVM.

Thereby, making the fees system, which is the basis for the CMVM’s financing system, more flexible and enshrining the possibility of lowering the amounts or rates and the maximum and minimum limits of all current levies. This is to be updated every six months and implemented by a Ministerial Order from the Minister responsible for finances, on proposal from the CMVM.

The model herein adopted ensures adequate financing for the CMVM and closer to budget implementation on the one hand and links the fees to the actual financing requisites on the other hand. This is to be done within the limits established by the Ministerial Order, thereby promoting balancing trends between income and expenses.

This flexibility mechanism closely follows the models implemented by the counterpart entities, where the concern with the intertemporal budget equilibrium with the non-generation of surpluses was also generally detected.

Particularly salient is that the framework herein envisaged only allows for a cut in the fees charged by the CMVM, when the circumstances applicable to the supervision costs are thoroughly examined.

Furthermore, advantage was taken of this legislative intervention in order to, on the one hand, adapt the CMVM Statute to the new phenomena emerging in the financial markets with the transposition of the Directive of the European Parliament and of the Council No. 2004/39/EC of 21st April, on the Markets in Financial Instruments, and, on the other hand, clarify aspects of the legal framework applicable to the CMVM when compared with other legal frameworks. Within this context, the labour system and social protection applicable to the CMVM’s employees was clarified. This contributed to the applicable ethic principles being intensified.

Finally, also clarified was the assets and financial framework applicable to the CMVM in alignment with the solutions that ensued from the State Budget Law for Financial Supervisory Authorities.
Thus:

pursuant to Article 198/1/a) of the Constitution, the Government hereby decrees the following:

**Article 1**
**Amendment to the CMVM Statute**

Articles 9, 11, 12, 20, 25-A, 28 and 30 to 33 of the CMVM Statute, approved by Decree-Law No. 473/99, of 8th November, amended by Decree-law No. 232/2000, of 25th September, and No. 183/2003, of 19th August, are hereby amended to read as follows:

(...)

**Article 2**
**Republication**

The CMVM Statute (published in an appendix to Decree-law No. 473/99 of 8th November) is hereby republished in the appendix to the present Decree-law with the current wording, which forms an integral part thereof.

**Article 3**
**Entry into force**

This document shall come into force on the day after publication.

Seen and approved by the Council of Ministers on 19th June 2008. - José Sócrates Carvalho Pinto de Sousa - Emanuel Augusto dos Santos.
Promulgated on 9th August 2008.
For publication.
President of the Republic, Aníbal Cavaco Silva.
Countersigned on 11th August 2008.
The Prime Minister, José Sócrates Carvalho Pinto de Sousa.