

Angola: new securities regulations

In October of this year the Angolan executive has adopted a number of securities regulations. These regulations form part of the regulatory framework that its being put in place for the establishment and operation of the Angolan securities market. This briefing describes the main contents of the new regulations.

In addition to the adoption of the new regulations, the Angolan Capital Market Commission (*Comissão do Mercado de Capitais*; 'CMC') published a draft of the Angolan Securities Code (*Código dos Valores Mobiliários*). This code will deal with most activities that involve transferable securities, other financial instruments and capital markets more generally and will, when it comes into force, replace a number of existing laws and regulations.

Collective investment undertakings

The Legislative Presidential Decree (*Decreto Legislativo Presidencial*) No. 7/13 of October 2013 regulates the establishment and operation of collective investment undertakings in Angola.

The decree is based on Law No. 12/05 of 23 September 2005 on Securities (*Lei no.2/05, de 25 Setembro, dos Valores Mobiliários*; the 'Securities Act'), which is expected to be replaced in due course by the aforementioned Securities Code. The decree does not apply to private equity funds, securitisation funds and pension funds.

Collective investment undertakings that operate in Angola require the approval of the CMC and will be subject to the CMC's supervision. The decree distinguishes between investment funds (ie undertakings without separate legal personality) and investment companies (ie undertakings with legal personality). The legal regime applicable to the latter is mainly regulated by Angolan company law. There are, however, no generally applicable rules that apply to the former and the decree therefore also deals with the legal structure of investment funds.

An undertaking is considered to be a collective investment undertaking for the purposes of the decree if its request for capital:

- is directed at an indefinite number of people

- is preceded or accompanied by marketing activities to an indefinite number of persons
- is directed to at least 150 persons.

Collective investment undertakings can be open- as well as closed-ended. Real estate collective investment undertakings can be mixed by having two types of participations (fixed and variable). If participation in an undertaking is limited to institutional investors, the undertaking can benefit from certain exemptions from the decree's rules.

The decree allows that third parties guarantee the capital of the undertaking or a certain return on the investments made in the undertaking.

The decree describes in detail the way in which an investment undertaking has to be organised and the manner in which participations can be marketed, issued and redeemed. It also describes the obligations of the fund managers and custodians towards the participants.

The manager of the undertaking needs to be authorised either as financial institution or as an authorised fund manager under the decree. The decree describes the conditions to which a fund manager is subject and its obligations towards the CMC. Fund managers must, for example, comply with rules in relation to their internal organisation, conduct of business, subcontracting and remuneration.

With regard to the activities of the undertakings themselves, the decree distinguishes between undertakings that invest in securities and those that invest in real estate, as well as open- and closed-ended undertakings. It sets out in detail the activities in which each type of fund can engage and its obligations in terms of, for example, valuation. The undertaking must also prepare fund management regulations that deal with the matters listed in the decree.

The undertakings are subject to a number of information and (financial) reporting requirements, including the preparation of a prospectus (abridged and full) which must be published in a widely distributed Angolan newspaper as well as be available on the CMC's information systems.

Securities brokers and distributors

Presidential Legislative Decree No. 5/13 of 9 October 2013 regulates the activities of entities that act as intermediaries or distributors of securities. The decree is based on the Securities Act as well as on the Financial Institutions Act (*Lei No. 13/05, de 30 Setembro, das Instituições Financeiras*). The entities must be authorised under the Financial Institutions Act and, in addition, certain of its activities will require prior CMC approval. The decree describes the activities in which securities brokers and distributors may engage. It provides that the CMC can impose capital requirements on these entities.

Operators of regulated securities markets

Presidential Legislative Decree No. 6/13 of 10 October 2013 (also based on the Securities Act) regulates the establishment and operations of entities that manage and operate regulated securities markets in Angola.

The decree provides that the entities require authorisation from the CMC and lists the requirements that need to be complied with in order to obtain such authorisation. It also describes the authorisation process. The decree provides for rules in respect of the entity's objectives, shareholder and capital structure, management and control, conduct rules as well as prudential supervision.

The decree also regulates central counterparties and clearing and settlement entities that provide services in

connection with a regulated securities market.

Public debt market

Presidential Legislative Decree No. 4/13 of 9 October 2013 sets the rules for the establishment and operation of a regulated market for the secondary trade in Angolan public debt represented by transferable instruments.

The decree provides that this market will be subject to regulation and supervision by the CMC. It sets out the conditions with which the entity operating the market needs to comply as well as the rules that apply to instruments that can be admitted to the market. In order to be able to trade on the market, an entity has to become a member of the regulated market.

Brokers that are authorised under the Securities Act as well as other entities that meet certain requirements (as further stipulated by the entity that operates the market) can become members of the market. The decree also establishes certain guidelines in respect of the operation of the market itself as well as the information that must be provided by the market operator to the public.

Contact

Pieter van Welzen

+31 20 711 9154

pieter.vanwelzen@cliffordchance.com

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Clifford Chance, Droogbak 1A, 1013 GE Amsterdam, PO Box 251, 1000 AG Amsterdam

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