

PROTOCOL OF COOPERATION

Between the

Comissão do Mercado de Capitais, Angola



**COMISSÃO
DO MERCADO
DE CAPITAIS**
REPÚBLICA DE ANGOLA

and the

Prudential Authority



2020

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Considering that:

- i. The Financial Services Board (FSB) and the CMC signed a Protocol of Cooperation in November 2012 for mutual assistance aimed at strengthening the cooperation between the two Authorities, to protect the investors and to ensure stability, efficiency and integrity of the securities markets of Angola and South Africa, as well as to coordinate the markets supervision and the enforcement of the Laws and Regulations in force in each jurisdiction;
- ii. The most recent changes in the structure of the South African Financial Regulation and Supervision System that culminated with the adoption of the Twin-Peaks financial supervision model, through which two supervisory authorities have been established, namely: The Financial Sector Conduct Authority (FSCA) and Prudential Authority (PA) urges the CMC, as a body responsible to regulate and supervise the Capital Markets in Angola, to adapt to the new financial regulatory changes in South Africa, thus ensuring the regular functioning of the markets, controlling information and prevent systemic risk;
- iii. Given the current landscape of the South African financial regulation and supervision, there is a need to sign a cooperation protocol between the CMC and the Prudential Authority being the authority entrusted with regulatory powers and prudential supervision on non-banking financial institutions linked to the capital markets as well as of the banking financial institutions that operate in the capital markets space.

The signatories wish to provide each other mutual assistance in order to facilitate the performance of the duties entrusted to them in their respective jurisdictions to implement or ensure compliance with their Laws and Regulations.

It is hereby agreed that this PROTOCOL OF COOPERATION BETWEEN THE CAPITAL MARKETS COMMISSION OF ANGOLA AND THE PRUDENTIAL AUTHORITY ON MATTERS OF COOPERATION REGARDING THE REGULATION AND PRUDENTIAL

SUPERVISION OF FINANCIAL INSTITUTIONS (BANKS AND NON BANKS) THAT OPERATE IN CAPITAL MARKETS, is governed by the following provisions:

ARTICLE 1st

(Object)

This Protocol of Cooperation establishes the essential principles and common objectives by which the Capital Markets Commission and the Prudential Authority is governed in order to develop a strategic partnership.

ARTICLE 2nd

(Definitions)

For purposes of this Protocol of Cooperation the words and terms that follows have the meaning that are attributed to them herein as follows except when the context imposes different meaning, :

1. "Authorities" means the *Comissão do Mercado de Capitais* (CMC) of Angola and Prudential Authority and "Authority" shall refer to either one of them.
2. "Requested Authority" means an Authority to whom a request for assistance is made under this Protocol of Cooperation.
3. "Requesting Authority" means an Authority who makes the request for assistance under this Protocol of Cooperation.
4. "Laws and Regulations" means the laws of the jurisdictions of the Authorities, the regulations promulgated under such laws, and other regulatory instruments that regulate the duties and functions of the Authorities.
5. "Person" means a natural or legal person, unincorporated entity or association, including corporations and partnerships.
6. The definitions under relevant laws of each Authority will prevail.

ARTICLE 3rd

(General Principles Regarding Mutual Assistance and Exchange of Information)

1. This Protocol of Cooperation establishes the intention of the Authorities regarding mutual assistance and the exchange of information for purposes of enforcing and securing compliance with the respective Laws and Regulations of the jurisdictions of the Authorities.
2. The Authorities recognise the importance and desirability of providing mutual assistance and exchange of information for purposes of enforcing and ensuring compliance with the Laws and Regulations applicable in their respective jurisdictions.
3. The Authorities acknowledge that they may only provide information under this Protocol of Cooperation if they are permitted to do so under applicable laws, regulations and requirements of their respective jurisdictions
4. This Protocol of Cooperation does not modify or substitute any existing laws or regulatory requirements applicable to Angola or South Africa.
5. This Protocol establishes a statement of intention for Authorities to provide mutual assistance and exchange of information in order to ensure compliance with the laws and existing regulations in the jurisdictions of the Authorities.
6. In this regard, no binding rights or obligations emerge from this Protocol of Cooperation and does not attract any liability directly or indirectly to either Authority and likewise does not affect any agreement or arrangements under other Protocols of Cooperation that the Authorities may have entered into.
7. This Protocol of Cooperation does not confer upon any Person or any Authority the right or legitimacy to obtain directly or indirectly, to suppress or exclude any information or to make a request for assistance under the terms defined by this Cooperation Protocol.
8. A request for assistance may be denied by the Requested Authority, when:

- a) the request would require the Requested Authority to act in a manner that would violate domestic law or jeopardise on-going investigations or proceedings;
- b) criminal proceedings have already been initiated in the jurisdiction of the Requested Authority based upon the same facts and against the same Person(s) or the same Person(s) have already been the subject of final punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority, unless the Requesting Authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the Requesting Authority would not be of the same nature or duplicative of any relief or sanctions already obtained in the jurisdiction of the Requested Authority.
- c) the request is not made in accordance with the provisions of this Protocol of Cooperation; or
- d) on grounds of public interest or national interest.

9. Where a request for assistance is denied or where the assistance cannot be granted under domestic law, the Requested Authority will consult the other Authority pursuant to Article 9 and provide the reasons for not granting the assistance.

ARTICLE 4th

(Scope of Assistance)

- 1. The Authorities will upon reasonable request and within the framework of this Protocol of Cooperation, provide each other with the fullest assistance permissible to secure compliance with the respective Laws and Regulations of the Authorities.
- 2. The assistance available under this Protocol of Cooperation shall be according to international standards and norms and Authorities undertake to:

3. In accordance with the Article 6th, taking or compelling a person's statement or where permissible, regarding the matters set forth in the request for assistance, questioning or taking testimony of persons designated by the requesting Authority.
4. Cooperate on anti-money laundering issues and to notify the other when violations of any regulations are identified.
5. Promote and ensure that all persons involved in the financial market are properly licensed or registered and promote high standards of transparency and integrity in the way such persons conduct their business.
6. Cooperate in the processes of acquisitions and mergers.
7. Any other matter, which may be agreed between the Authorities.

ARTICLE 5th

(Areas of Cooperation)

1. The Authorities' agree to work towards effective cooperation which might take various forms, including:
 - a. Examine the possibility of entering into strategic alliances between the Authorities which may include cross-border listing and trading;
 - b. Explore the possibility of establishing a framework for mutual recognition in key segments of the capital markets to facilitate enhanced cross border activities;
 - c. Strengthen regulatory cooperation and assistance between the Authorities in matters relating to cross border regulation;
 - d. Regular exchange of regulatory expertise, information and knowledge to facilitate and encourage the development of the respective capital markets;
 - e. Cooperate on enhancing the mutual knowledge and understanding of the regulatory framework, products, market institutions and financial intermediaries in the respective capital markets; and

- f. Explore other areas for mutual collaboration and cooperation as maybe identified and agreed by the Authorities in due course.

ARTICLE 6th

(Requests for Assistance)

1. Request for assistance shall be made in writing and in the form agreed between the Authorities and shall be addressed to the Requested Authority's contact person (s) referred to in the APPENDIX 1 of this Protocol of Cooperation. In urgent cases, request may be made in summary form to be followed by a full request in an agreed format.
2. In urgent circumstances, requests for assistance may be done by email or fax, provided such communication is confirmed through an original, signed document.
3. The contact person from either Authorities may be changed by written notification without the need to re-sign the Protocol of Cooperation.

ARTICLE 7th

(Execution of Requests for Assistance)

1. To the extent permitted by law, the Requested Authority will take all reasonable steps to obtain and provide the information sought.
2. To the extent permitted by law, the Requesting Authority will provide the Requested Authority with such further information as may reasonably be required for the efficient execution of the request including the provision of further information as to the circumstances surrounding the request.
3. Upon request, the Requested Authority will seek responses to questions from any person involved, directly or indirectly in the activities that are the subject matter of the request for assistance or who is in possession of information that may assist in the execution of the request.

4. Unless otherwise arranged by the Authorities, information and documents requested under this Protocol of Cooperation will be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by persons designated by the Requested Authority.
5. Where permissible under the Laws and Regulations of the jurisdiction of the Requested Authority, a representative of the Requesting Authority may be present at the taking of statements and testimony and may provide to a designated representative of the Requested Authority specific questions to be asked to any witness.

ARTICLE 8th

(Permissible Uses of Information)

1. The Requesting Authority may use information and documents furnished in response to a request for assistance, under this Protocol of Cooperation, solely for the purposes set forth in the request for assistance, including ensuring compliance with the Laws and Regulations related to the request.
2. If the Requesting Authority intends to use information provided under this Protocol of Cooperation for any purpose other than those stated in number 1 of this Article, it should obtain the consent of the Requested Authority. The Authority receiving the information should seek authorization from the other Authority that it intends to convey the information to a third person.
3. Each Authority will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of information.

ARTICLE 9th

(Confidentiality)

1. Each Authority will keep requests made under this Protocol of Cooperation confidential. The contents of such requests and any matters arising under this Protocol of Cooperation shall be confidential, including consultations between the Authorities and unsolicited assistance. After consultation with the Requesting Authority, the Requested Authority may disclose that the Requesting Authority has made the request in cases which such disclosure is necessary to meet the request.
2. The Requesting Authority will not disclose confidential documents and information received under this Protocol of Cooperation, except as anticipated by number 1 of Article 7th or in response to a legally enforceable request.
3. In the event of a legally enforceable request, the Requesting Authority will notify the Requested Authority prior to complying with the demand and will assert such appropriate legal exemptions or privileges with respect to such information as may be available. The Requesting Authority will use its best efforts to protect the confidentiality of confidential documents and information received under this Protocol of Cooperation.
4. All documents and the information contained therein provided pursuant to this Protocol will remain the property of the Authority providing such information.
5. The Requesting Authority must destroy the information disclosed by the Re-quested Party as soon as the purpose for which it was requested has been fulfilled and in accordance with records retention policies and legislation.

ARTICLE 10th

(Consultation Regarding Mutual Assistance and Exchange of Information)

1. The Authorities will consult periodically with each other regarding this Protocol of Cooperation about matters of common concern and interest with a view to improve the operations and resolve any issues that may arise. In particular, the Authorities will consult in the event of:
 - a) A significant change in market or business conditions or in the legislation, especially where such change is relevant to the functioning of this Protocol of Cooperation;
 - b) An amendment necessitated by the inability of an Authority to meet the provisions of this Protocol of Cooperation; and
 - c) Any other circumstance that makes it necessary or appropriate to consult, amend or extend this Protocol of Cooperation in order to achieve its purposes, and objectives.
2. The Requesting Authority and the Requested Authority shall consult on questions relating to specific requests made. The Requested Authority shall in executing the request, act in accordance with the laws in force within its jurisdiction unless such a request requires the Requested Authority to exceed its legal authority and in such a case, the Requested Authority shall immediately notify the Requesting Authority of its inability to carry out the request.

ARTICLE 11th

(Cooperation)

The respective Authorities intend to work together to identify and address, subject to the availability of personnel and resources, the training and assistance required to facilitate the

development of the regulatory framework for securities, futures and other related investment products markets both in Angola and South Africa.

ARTICLE 12th

(Unsolicited Assistance)

Each Authority will make all reasonable efforts to provide without prior request, the other Authority with any information that it considers is likely to be of assistance to those other Authority in securing compliance with Laws and Regulations applicable in their jurisdiction.

ARTICLE 13th

(Effective Date)

1. This Protocol of Cooperation comes into effect upon the last Authority signing and is in force for an indefinite period, unless either the parties denounces it in writing, giving at least 30 days written notice of the termination to the other party.
2. Without prejudice to the provisions of the preceding paragraph, the initiating Authorities may amend at any time or revoke this Protocol of Cooperation, provided they do so by mutual agreement in writing.

ARTICLE 14th

(Relation with Other Treaties)

The provisions of this Protocol shall not affect the rights and obligations under other international treaties that the parties are signatories.

ARTICLE 15th

(Interpretation and Dispute Resolution)

Disputes arising out of the interpretation and application of this Protocol shall be dealt with by consultation through the channels of contact provided for in Annex 1 to the Protocol, based on the principle of good faith, and mutual respect.

ARTICLE 16th

(Amendments)

The parties may by mutual consent amend this Protocol. Each party shall communicate in writing through diplomatic channels of its intention to the other, giving at least 30 days written notice to the other party.

ARTICLE 17th

(Termination)

1. An Authority may terminate this Protocol of Cooperation at any time by giving written notice to the other party at least 30 days written notice.
2. In the event that an Authority decides to terminate its participation in this Protocol of Cooperation, cooperation and assistance arising out of this document shall continue until the thirtieth day after that Authority has notified the other Authority of its intention to discontinue cooperation under the terms of this document.
3. If any Authority gives a termination notice, cooperation and assistance in accordance with this Protocol of Cooperation will continue with respect to all requests for assistance that were made, or information provided, before the effective date of notification (as indicated in the notice but not earlier than the date the notice is sent) until the Requesting Authority terminates the matter for which assistance was requested.

4. In the event of the termination of an Authority's participation in a Protocol of Cooperation, information obtained under this Protocol of Cooperation will continue to be treated confidentially in the manner prescribed in the Article 8th.

IN WITNESS WHEREOF the undersigned have signed this Protocol of Cooperation in two (2) originals written in two languages (English and Portuguese). In the event of any inconsistency between the English version and Portuguese version, the English version prevails.

Appendix 1

1. For purposes of communications or notices with respect to this Protocol of Cooperation , the correspondence shall be directed to the following representatives:

