

**DAHIR NO. 1-04-21 OF 1<sup>st</sup> RABII I 1425 (21 APRIL 2004) ENACTING LAW NO.  
26-03 ON PUBLIC OFFERINGS ON THE STOCK MARKET  
(Amended and completed by law 46-06)**

**DAHIR NO. 1-04-21 OF 1<sup>st</sup> RABII I 1425 (21 APRIL 2004) ENACTING LAW NO.  
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(Amended and completed by law 46-06)

PRAISE TO GOD ALONE!

(Great Seal of His Majesty Mohamed VI)

Let it be known hereby - May God elevate and strengthen the content! That our  
Sherifian Majesty,

Having regard to the Constitution, in particular, articles 26 and 58 thereof.

HAS DECIDED THE FOLLOWING:

Law no. 26-03 on public offerings on the stock market, as adopted by the Chamber of  
Councillors and the House of Representatives, is hereby enacted and shall be published in the  
Official Gazette further to this Dahir.

Done in Tangier, this 1st day of Rabii I 1425 (21 April 2004).

For countersignature:

The Prime minister,

Driss Jettou

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LAW NO. 26.03  
on public offerings on the stock market

**TITLE ONE  
GENERAL PROVISIONS**

**Article one:** The purpose of this law is to define the specific conditions under which a public  
offering of securities listed on the Stock Exchange must be carried out.

**Article 2:** A public offering is defined as the procedure whereby an individual or legal entity, acting alone or in concert in the context of article 10 below, referred to as the initiator, may publicly announce that they intend to acquire, exchange or sell all or part of the securities granting access to the share capital or voting rights of a company whose securities are listed on the Stock Exchange.

**Article 3:** The public offering for purchase is the procedure whereby an individual or legal entity acting alone or in concert in the context of article 10 below, referred to as the initiator, may publicly announce that they intend to acquire securities in cash referred to in article 2 above.

**Article 4:** A public exchange offer is the procedure whereby an individual or legal entity, acting alone or in concert in the context of article 10 below, referred to as the initiator, may publicly announce that they intend to acquire, by the exchange of securities, the securities referred to in article 2 above.

**Article 5:** When the public offering is mixed, i.e. involving partial settlement in securities with a cash balance, the applicable rules are determined according to the main feature given to the offer by its initiator, subject to the approval of the Securities Ethics Council (CDVM) instituted by Dahir providing law no.1-93-212 of 4 Rabii II 1414 (21 September 1993) relating to the Securities Ethics Council and to the information required of legal entities making public offerings, as amended or completed.

**Article 6:** The withdrawal public offering is the procedure whereby individuals or legal entities, holding, alone or in concert in the context of article 10 below, a majority of the voting rights of a company whose shares are listed on the Stock Exchange, may publicly announce that they intend to repurchase securities referred to in article 2 above of the said company, in order to enable individuals or legal entities holding securities of the said company and not belonging to the said group to withdraw from the share capital of the said company.

**Article 7:** The public offering for sale is the procedure whereby an individual or legal entity, acting alone or in concert in the context of article 10 below, referred to as the initiator, may publicly announce that they intend to sell the securities referred to in article 2 above.

**Article 8:** An initiator of a public offering is defined as any individual or legal entity, acting alone or in concert in the context of article 10 below, who submits a project of the public offering.

**Article 9:** A target company is defined as a company whose shares are listed on the Stock Exchange and whose voting rights are the subject of a public offering.

**Article 10:** Persons acting in concert are defined as individuals or legal entities who cooperate on the basis of an agreement, whether formal or tacit, oral or written, aimed at:

- either acquiring or selling the voting rights of a company;
- or exercising voting rights to implement a common policy vis-à-vis the company;
- or making a public offering succeed or fail.

Such agreement is presumed to be:

- Between a company and the members of its board of directors, its chief executive officers, the members of its supervisory board, the members of its management board or its managers and the general partners;
- Between spouses, parents, and allies up to the second degree including persons referred to in the preceding paragraph;
- Between subsidiaries of a parent company or between companies controlled by the same person or persons;
- Between a company, its subsidiaries and the companies which it controls in the context of article 144 of law no. 17-95 relating to the public limited companies;
- Between the partners of a simplified public limited company, as defined in article 425 of the aforementioned law no.17-95, with regard to the companies it controls;

Persons acting in concert shall be jointly liable for the obligations imposed on them under this law.

**Article 11:** Opening date of a public offer is the date from which brokerage firms may submit the securities in response to a public offering. The said date shall be after the publication of the information document referred to in article 35 of this law.

The closing date of a public offering is the closing date for the presentation of securities by brokerage companies in response to the offer.

The duration of a public offering refers to the period between the opening date and the closing date of the public offering.

**Article 12:** The period of a public offering is the period between the publication date of the notice of the submission of the draft offer, referred to in article 28 of this law, and the publication date of the notice relating to the result of the offer referred to in article 39 below.

**Article 13:** Public offerings aim to ensure market transparency by ensuring respect for the principles of equality of shareholders, market integrity and fairness in transactions and competition. They may not intend to prevent, restrict or distort the competition nor act contrary to national strategic economic interests.

The CDVM ensures the orderly conduct of these public offerings in the best interests of investors and the market.

**Article 14:** A public offering must propose the same price and implementation conditions to all holders of securities of the category to which the offer relates.

Any agreement that has the effect of creating inequality between security holders is null and void and renders the public offering inadmissible.

**Article 15:** The approval clauses referred to in article 253 of the aforementioned law no. 17-95, relating to the securities of a target company, may not be against the initiator of a public offering by the shareholders of that company.

**Article 16:** The agreements provided for in the 1<sup>st</sup> paragraph of article 257 of the above-mentioned law no. 17-95, on the commitment to present or not to present its securities to a public offering, are null and void.

These agreements shall also be void if they do not preserve the freedom of their signatories to benefit from a competing public offering.

**Article 17:** The procedures for the application of this law shall be set by the administration, upon the proposal of the Securities Ethics Council.

## TITLE II

### MANDATORY PUBLIC OFFERINGS

**Article 18:** The submission of a public offering is mandatory when an individual or a legal entity, acting alone or in concert within the meaning of article 10 above, has held, directly or indirectly, a specified percentage of the voting rights of a company whose securities are listed on the Stock Exchange.

The percentage of voting rights that obliges its holder to submit a public offering for purchase is determined by the administration, at the proposal of the CDVM, without being less than one-third of the voting rights of the target company.

Any individual or legal entity referred to in paragraph 1 above must, on its own initiative and within three working days after the crossing of the percentage of voting rights referred to in the previous paragraph, file with the CDVM a project of the public offering for purchase under the conditions provided for in this law.

Failing this, this person and any other persons, if applicable, acting in concert with them shall ipso jure lose all voting, financial and other rights attached to their status as shareholders. These rights shall be recovered only after the submission of a project of the public offering for purchase in accordance with the provisions of Title IV of this law.

**Article 19:** The CDVM may, at the request of the person referred to in article 18 above, grant a derogation from the submission of a project of a mandatory public offering for purchase under the conditions provided for in this article.

A derogation may be granted where the exceeding of the percentage provided for in article 18 above does not affect the control of the company concerned, existing prior to the said exceeding, especially in the event of:

- a reduction in the capital of the company concerned;
- a transfer of the ownership of securities between companies belonging to the same group of companies. A group of companies is defined as the group made up by a parent company and its subsidiaries as well as companies in which a parent company and/or its subsidiaries hold shares and which they control within the meaning of article 144 of the aforementioned law no.17-95.

A derogation may also be granted when the voting rights that have just been held in excess of the percentage provided for in article 18 above, result in:

- a direct transfer as defined in 5) of article 4 of the Dahir enacting law no.1-93-211 of 4 Rabi II 1414 (21 September 1993) on the Stock Exchange, as amended or completed;
- a distribution of assets carried out by a legal entity in proportion to the rights of shareholders following a merger or a partial asset contribution;
- a subscription to the capital increase of a company in financial difficulty that compromises the continuity of operations or is the subject of one of the procedures for dealing with the company's difficulties, as provided for in book V of law no. 15-95 forming the Commercial Code;

The application for derogation shall be submitted by the person referred to in article 18 above to the CDVM within three working days of crossing the percentage of voting rights referred to in that article 18. This application must include the commitments of the said person with regard to the CDVM not to take any action to acquire, directly or indirectly, acting alone or in concert, control of the said company for a specified period of time, as well as, if applicable, to implement a remediation project for the company concerned when it is in financial hardship.

The CDVM examines the requested derogation with regard to the provisions of this article, the principles set out in article 13 above and the proposed commitments. If the CDVM grants the requested derogation, it publishes its decision in a legal announcements publication. This publication shall specify the reason for the derogation granted and, if applicable, the commitments entered into by the applicant.

Without prejudice to the pecuniary and criminal penalties provided for in articles 61 and 62 respectively below, the derogation from the submission of a mandatory public offering for purchase shall be cancelled by the CDVM if the person referred to in the 1<sup>st</sup> paragraph above fails to comply with the aforementioned commitments. In this case, the person concerned must make a public offering for purchase in accordance with the provisions of article 18 above.

**Article 20:** The submission of a withdrawal public offering is mandatory when one or more individuals or legal entities, shareholders of a company whose shares are listed on the Stock Exchange, hold, alone or in concert within the meaning of article 10 of this law, directly or indirectly, a specified percentage of the voting rights of the said company.

The percentage referred to above shall be determined by the administration, upon proposal of the Securities Ethics Council and may not be less than 90%.

The persons referred to in the first paragraph above must, on their own initiative and within three working days after the percentage of voting rights referred to in the previous paragraph has been exceeded, submit to the CDVM a project of the withdrawal public offering under the conditions provided for by this law.

Failing this, these individuals automatically lose all voting, financial and other rights attached to their status as shareholders. These rights shall only be recovered after the submission of a project of the withdrawal public offering, in accordance with the provisions of title IV of this law.

**Article 20 bis:** The submission of a withdrawal public offering is also mandatory in the event of delisting of a company's equity securities from the Stock Exchange for any reason whatsoever.

Individuals or legal entities holding alone or in concert within the meaning of article 10 above, the majority of the capital of the company in question must, on their own initiative and prior to the effective delisting, submit a withdrawal public offering under the conditions provided for by this law.

**Article 21:** The submission of a withdrawal public offering may also be imposed by the CDVM on the individual(s) or legal entity(ies) holding, alone or in concert within the meaning of article 10 above, the majority of the capital of a company whose securities are listed on the Stock Exchange, when the following conditions are met:

- the withdrawal public offering must be requested from the CDVM by a group of holders of equity securities not belonging to the aforementioned majority group;
- the aforementioned individual(s) or legal entity(ies) hold a specified percentage of the voting rights of the company concerned. This percentage shall be determined by the administration, upon proposal of the CDVM, and may not be less than 65% of the voting rights.
- the aforementioned individual(s) or legal entity(ies) shall convene an extraordinary general meeting of the said company in order to approve one of the following resolutions:
  - substantial amendments to the articles of association;
  - the merger by absorption of the company by another company;
  - the transfer or contribution of a substantial part or all of the assets of the company concerned to another company;
  - the elimination, for several years, of the distribution of dividends;
  - the transformation of the public limited company into a limited partnership with shares: in the latter case, the provisions of article 221 of the aforementioned law 17-95 are not applicable.

The CDVM shall decide on the application for a withdrawal public offering submitted to it with regard to the provisions of this article, the liquidity conditions of the securities concerned and the consequences of the intended operation with regard to the rights and interests of the shareholders.

If the CDVM declares the application inadmissible, it notifies the minority group of its decision.

If the CDVM declares admissible the application it has received in accordance with the provisions of paragraph 1 above, it shall notify its decision to the individual(s) or legal entity(ies) holding the majority of the capital, which shall then be required to submit, within a time limit set by the CDVM, a project of the withdrawal public offering under the conditions provided for in title IV of this law.



### **TITLE III**

#### **VOLUNTARY PUBLIC OFFERINGS**

**Article 22:** Any individual or legal entity, acting alone or in concert within the meaning of article 10 of this law, that wishes to make it known publicly that they would like to acquire securities listed on the Stock Exchange, may, on their own initiative, make a public offering for purchase of the said securities. In that case, they shall submit a project of the public offering for purchase under the conditions provided for in the title IV of this law.

**Article 23:** Any individual or legal entity, acting alone or in concert within the meaning of article 10 above, that wishes to make it known publicly that they would like to sell securities listed on the Stock Exchange, may, on their own initiative, make a public offering of sale of the said shares. In that case, they shall submit a project of the public offering of sale under the conditions provided for in the title IV of this law.

## TITLE IV

### COMMON PROCEDURES OF ALL PUBLIC OFFERINGS

**Article 24:** The submission of a project of public offering is made by the initiator to the Securities Ethics Council. This project must include, notably, the following proposals and information:

- the objectives and intentions of the initiator;
- the number and nature of the securities of the target company that it already holds, or that it may hold on its own initiative, and the date and conditions under which their purchase was or may be carried out;
- the price or the exchange parity, which the initiator offers to acquire or sell the securities, the elements they have retained to set them and the conditions of settlement, delivery or exchange conditions;
- the number of securities which the project of the public offering covers;
- possibly, the percentage, expressed in voting rights, below which the initiator reserves the right to withdraw his offer.

The content and implementation of the proposals carried out in the project of the offer are guaranteed by the initiator and, where appropriate, by any person acting as their personal guarantor.

In the event that the project of the public offering is declared admissible in accordance with the provisions of this law, the content and implementation of the proposals made in the project of the offer shall become irrevocable commitments of the initiator.

The project of the public offering must be accompanied by the information document referred to in article 35 below.

**Article 25:** The exchange price or parity referred to in article 24 above must be established according to relevant and usually selected valuation methods. The criteria used in those methods must be known, accurate, objective, significant and multiple, and must lead to an equitable and legitimate estimation of the target company, satisfying both the general interest of the proper functioning of the market and the requirement of the fairness of transactions.

In addition, in the case of a withdrawal public offering, the evaluation of the securities of the target company is carried out by an evaluator appointed by the initiator after prior approval by the CDVM. This latter ensures the independence of the evaluator. The remuneration of the evaluator may not, even partially, depend on the conclusions of the valuation or on the success of the project of the intended public offering operation.

In the case of a withdrawal public offering, the CDVM determines the minimum information to be contained in the valuation report and the procedures of publication by the initiator of all or part of the said report in a legal announcements publication.

**Article 26:** If the project of the public offering provides the delivery of securities to be issued, the irrevocable commitments provided for in article 24 (3<sup>rd</sup> paragraph) above entail an obligation to propose a resolution at the general meeting of the shareholders of the issuing

company to decide on or authorize the issue of securities intended to remunerate the shareholders presenting their securities on the offer under the conditions and clauses set in the project of the offer, unless the management body has an express delegation in this regard.

In accordance with the legal, regulatory or statutory provisions applicable to the initiator, the CDVM may authorize the latter to attach a condition to the opening of their offer to the prior authorization of the operation by the general meeting of its shareholders, provided that such meeting has already been convened when the project of the offer is submitted.

**Article 27:** The public offering project submitted to the CDVM must be accompanied, where appropriate, by the prior authorization(s) of the authorities or bodies empowered to authorize the intended operation, in accordance with the legal or regulatory provisions in force.

The authorization(s) referred to in the previous paragraph shall also be required in particular where the public offering concerns a credit institution, or an insurance or reinsurance company, in accordance with the laws governing them. They are also applied when the offer may violate the provisions of law no. 06-99 on freedom of prices and competition.

Failing the production of the above-mentioned authorizations, the public offering project shall be inadmissible.

**Article 28:** As soon as the public offering project referred to in article 24 above has been submitted, the CDVM shall publish a notice of the submission of the public offering project in a legal announcements publication laying down the main provisions of the said draft. The publication of the said notice marks the beginning of the offer period.

**Article 29:** The CDVM shall transmit the main characteristics of the public offering project to the administration, which shall assess them with regard to the national strategic economic interests mentioned in article 13 above. The administration has two working days from the said transmission to decide, if necessary, on whether the project is inadmissible with regard to the interests concerned.

In the event that the administration decides the inadmissibility of the conditions specified above, it shall immediately inform the CDVM.

If the administration fails to make its decision known within the two-day period mentioned above, it is supposed to have no comments to make.

**Article 30:** As soon as the public offering project is submitted, the CDVM requests the managing company of the Stock Exchange to suspend the listing of the securities of the company targeted by the project of the offer. The notice of suspension shall be published by the managing company under the conditions laid down in its General Regulations.

**Article 31:** The CDVM has a period of 10 working days, starting from the publication provided for in article 28 above, to examine the admissibility of the offer project.

It is entitled to require the initiator to provide all appropriate justifications and request any additional information necessary for its assessment. The request for the above-mentioned justifications and information shall suspend the time limit provided for in the 1<sup>st</sup> paragraph above.

**Article 32:** Subject to the decision of inadmissibility by the administration provided for in article 29 above, the CDVM shall assess the admissibility of the public offering project by examining, with regard to the principles laid down in article 13 above, the characteristics of the offer project and in particular:

- the objectives and intentions of the initiator;
- the price or the exchange parity, according to the objective evaluation criteria commonly used and the characteristics of the target company;
- the number of securities that the public offering covers;
- the nature, the characteristics, the listing or the market of the securities proposed in exchange;
- the percentage, expressed in voting rights, below which the initiator reserves the right to withdraw their offer.

The admissibility of the public offering project shall also be assessed with regard to the prior authorizations provided for in article 27 above.

**Article 33:** In the case of a mandatory public offering, if the CDVM considers that the offer project may undermine the principles laid down in article 13 above or does not contain sufficient guarantees to ensure its successful realization, the initiator must amend their project in accordance with the CDVM's recommendations, in order to respect those principles, or provide the required guarantees. If the initiator does not agree to amend their project, they are liable to the criminal sanctions provided for in article 62 below.

In case of a voluntary public offering, if the CDVM considers that the offer project may infringe upon the principles laid down in article 13 above or does not contain sufficient guarantees to ensure its successful realization, it shall recommend the necessary amendments and/or guarantees to the initiator. If the initiator refuses to make such amendments, the offer project shall be declared inadmissible by the CDVM which shall notify the initiator of its decision.

In all cases, the Securities Ethics Council is also entitled to request any additional guarantee from the initiator and to require the deposit of a hedge in cash or in securities. In particular, the CDVM may require the initiator to provide a guarantee for the settlement of securities.

**Article 34:** In the case referred to in the 3<sup>rd</sup> paragraph of article 27 above and in the case of inadmissibility decided by the administration provided for in article 29 above, as well as in the cases where the CDVM decides the inadmissibility of the offer in accordance with articles 32 and 33 above, the CDVM shall notify the initiator of the decision of inadmissibility.

Any decision of inadmissibility must be justified.

When a public offering is declared admissible, the CDVM notifies the initiator of its decision and publishes a notice of admissibility in a legal announcements newspaper in which the main provisions of the public offering as well as its schedule are recounted and simultaneously requests the managing company of the Stock Exchange to resume the trading.

**Article 35:** Any public offering project must be accompanied by the information document provided for in article 13 of the above-mentioned Dahir providing law no. 1-93-212 of 4 Rabi' II 1414 (21 September 1993).

In the event that the target company adheres to the objectives and intentions of the initiator, the above-mentioned information document may be prepared jointly by the initiator and the target company.

In the event that the target company does not adhere to the initiator's objectives and intentions, it may separately prepare and submit its own information document to the CDVM within a maximum period of 5 trading days after the initiator's information document being approved. The latter is then required to submit a copy of its information document and its public offering project to the target company on the same day of submission of its public offering project to the CDVM.

**Article 36:** The content of the information document(s) is set by the Securities Ethics Council. This or these information document(s) must be endorsed by the said Council in accordance with the provisions of article 14 of the aforementioned Dahir providing law no. 1- 93-212 of 4 Rabi' II 1414 (21 September 1993).

**Article 37:** The CDVM has a maximum period of 25 working days to approve the information document(s), starting from the date of their submission. However, the CDVM may extend this period for 10 working days if it considers that additional justifications or explanations are necessary.

At the end of this period, the CDVM grants or withholds its approval. Any denial of the approval must be justified.

**Article 38:** The initiator and, where applicable, the target company in the case provided for in the 3<sup>rd</sup> paragraph of article 35 above must, each in the matters that concern them, publish the information documents referred to in the said article 35 in a legal announcements newspaper within a maximum of 5 working days after obtaining the approval.

**Article 39:** Persons who wish to present their securities to the public offering shall transmit their orders to the brokerage companies during the offer period. Purchase, sale or exchange orders may be revoked until the closing date of the offer.

The managing company centralizes the purchase, sale or exchange orders and communicates the results to the CDVM. The latter publishes a notice related to the result of the offer in a legal announcements newspaper. This notice shall specify, in particular, when the offer involves a positive follow-up, the number of securities acquired, sold or exchanged by the initiator.

## TITLE V

### COMPETITIVE PUBLIC OFFERS AND OVERBIDDING

**Article 40:** Public offerings can be the subject of competition either through one or more competitive public offerings or through an overbid.

**Article 41:** A competitive public offering is the procedure whereby any individual or legal entity, acting alone or in concert in the context of article 10 of this law, may, from the date of the opening of a public offering, and 5 trading days at the latest before its closing date, submit a competitive public offering to the CDVM relating to the securities of the company targeted by the initial offer, under the conditions provided for in title IV of this law.

**Article 42:** The overbid is the procedure whereby the initiator of the initial public offer improves the terms of their initial offer either spontaneously or following a competitive public offering, by changing the price, or the nature or quantity of the securities or the terms of payment.

**Article 43:** The initiator who wishes to proceed with an overbid must submit the proposed amendments to the CDVM to its initial public offer five trading days at the latest before the closing date of its initial offer. The CDVM shall assess the admissibility of this overbid project within five trading days as of the submission of the said project.

**Article 44:** Subject to the special provisions laid down in the present title, the competitive public offerings and overbids shall be submitted to the procedures of title IV of this law.

**Article 45:** The initiator of a public offering which overbids for the terms of its previous offer or for a competitive public offering shall set up and submit for approval by the CDVM a complementary information document to the information document provided for in article 35 above.

**Article 46:** The CDVM sets the schedule of a competitive public offering or an overbid by aligning the closing dates of the offers present at the latest date.

**Article 47:** When more than ten weeks have passed since the publication of the opening of a public offering, the CDVM, in order to accelerate the confrontation of public offerings, may set a time limit for the submission of successive overbids or competitive public offerings.

**Article 48:** In the case of a competitive public offering, the initiator of the initial, or previous public, offering must, 10 days at the latest before the closing of the said public offering, inform the CDVM of their intentions. They can maintain their offer, withdraw it or amend it by an overbid.

## TITLE VI

### CERTAIN RULES RELATING TO THE TARGET COMPANIES AND TO THE INITIATORS OF A PUBLIC OFFERING

**Article 49:** During a public offering period, the initiator and, where appropriate, the persons with whom they act in concert can, in the case of a mixed public offering, trade neither on the securities market of the target company nor on the market for securities issued by the company whose securities are proposed in exchange.

**Article 50:** In the case of a purchase public offering carried out in accordance with article 22 above, the initiator may withdraw their public offering within 5 trading days following the publication of the notice of admissibility of a competitive offer or an overbid. They inform the CDVM of their withdrawal decision which is published by the latter in a legal announcements newspaper.

**Article 51:** If during the period of a purchase public offering, the initiator and, where appropriate, the persons with whom the initiator acts in concert purchase securities of the target company on the market at a price higher than the offer price, this shall automatically raise the price of the public offering up to the level of the initiator's intervention price on the market.

After the closing of the offer and until the publication of its result, the initiator and the persons acting in concert with them, if applicable, may not purchase securities of the target company at a price higher than that of the purchase public offering.

**Article 52:** During the public offering period, the target company and the initiator must be particularly vigilant with regard to their declarations relating to the said offer. They must strictly limit the information they disseminate to the public to the terms and elements contained in the information document(s) referred to in article 35 above. They must not mislead the public. In addition, any information relating to the offer during its term, issued by the target company or the initiator, must be transmitted to the CDVM before its publication or distribution.

**Article 53:** During the public offering term, the target company and the persons acting in concert with it, if necessary, may not trade, directly or indirectly, in the securities of the target company. When the public offer is fully paid in cash, the target company may, however, resume the implementation of a share buy-back program as soon as the resolution of the general meeting having authorized this program has expressly provided for it.

**Article 54:** During the public offering period, the target company as well as the initiator, the individuals or legal entities holding directly or indirectly at least 5% of the capital or of voting rights of the target company and any other individuals or legal entities acting in concert with the latter, are required to report to the CDVM after each trading day the purchases and sales operations that they have carried out on the securities concerned by the offer as well as any operation resulting in an immediate or future transfer of the ownership of securities or voting rights of the target company.

**Article 55:** Any delegation of authority to increase the share capital decided by the extraordinary general meeting of the target company shall be suspended during the period of the public offering to purchase or exchange securities of the said company, unless the

aforementioned meeting, prior to the submission of the project of the offer, has expressly authorized, for a period between the dates of two meetings called to approve the financial statements for the past financial year, an increase in capital during the said period of purchase or exchange public offering for and if such increase has not been reserved.

**Article 56:** The provisions of articles 24 and 25 of law no 17-95 on public limited companies are not applicable in the event that a company whose equity securities are listed on the Stock Exchange proceeds with a capital increase in order to remunerate securities contributed to a public exchange offer.

However, the statutory auditors must express their opinion on the conditions and consequences of the issue, in the information document provided for in article 13 of the aforementioned Dahir providing law no. 1-93-212 of 4 Rabi II 1414 (21 September 1993), disseminated to the public on the occasion of the completion of the capital increase, and in their report to the first ordinary general meeting that will follow the issue.

**Article 57:** During the period of the public offering, the target company cannot increase its treasury shares.

For the purposes of this law, by treasury shares, are defined as those held, directly or indirectly, by the target company in the capital of the company that controls it within the meaning of article 144 of the aforementioned law no. 17-95.

**Article 58:** During the public offering period, the competent bodies of the target company must inform the CDVM in advance of any draft decision falling within their attributions, that is likely to prevent the realization of the public offering or a competitive offer, such as the mass issue of securities, the transfer of a part of the assets or the conclusion of an agreement outside the normal activity of the target company.

The CDVM shall examine these draft decisions with regard to the principles laid down in article 13 above. They must inform the security holders of the target companies about these draft decisions and make known, if applicable, its assessment of the said drafts. They may request the prior approval, if necessary, of some of these decisions by the general meeting of shareholders.



## TITLE VII

### CONTROL AND PENALTIES

#### Chapter 1: Control and financial penalties of the CDVM

**Article 59:** The initiators of a public offering, the target companies and, if applicable, the persons acting in concert with them, are subject to the control of CDVM which ensures the orderly conduct of these offers in the best interests of investors and the market.

For the purpose of investigating and recognizing infringements of the provisions of this law and the texts adopted for its application, the CDVM is authorized to have any sworn agent that is specially commissioned for this purpose, carry out investigations of persons or organizations referred to in the first paragraph above.

In order to carry out its control mission, the CDVM is authorized to require that the above-mentioned persons or organizations provide any documents and information necessary.

It also controls the compliance of the above-mentioned persons or organizations with the provisions of the circulars referred to in article 4-2 of the aforementioned Dahir providing law no.1-93-212 of 4 Rabi II 1414 (21 September 1993), which are applicable to them.

**Article 60:** The CDVM may impose a financial penalty, without the amount of the said sanction exceeding fifty thousand (50,000) dirhams, in the following cases:

- When the evaluation report does not contain the mentioned minimum information or when the said report is not published in a legal announcements newspaper by the initiator in contravention of the provisions of the 3<sup>rd</sup> paragraph of article 25 above;
- When the information documents referred to in article 38 above are not published within the time limit provided for in article 38 above.
- When the initiator fails to inform the CDVM of its decision to withdraw their public offering in contravention of the provisions of article 48 above;
- When the target company or the initiator fails to transmit any information relating to the public offering during its period to the CDVM under the conditions provided for in the 2<sup>nd</sup> paragraph of article 52 above;
- When the competent bodies of the target company fail to inform the CDVM in advance of any draft decision referred to in the 1<sup>st</sup> paragraph of article 58 above.

**Article 61:** The CDVM may impose a financial penalty of an amount between fifty thousand (50,000) and two hundred thousand (200,000) dirhams on the person benefiting from a derogation from a purchase public offering pursuant to article 19 above, when the latter fails to comply with its commitments vis à vis the CDVM conditioning the said derogation, as provided for in the 4<sup>th</sup> paragraph of the said article 19 above.

## Chapter II: Penal sanctions

**Article 62:** Any person shall be liable to imprisonment from six (6) months to one (1) year and a fine of one million (1,000,000) to two million (2,000,000) dirhams or only one of these two penalties if they:

- fail to submit to the CDVM a public offering in contravention of the provisions of articles 18, 20, 21 (last paragraph) above, or following the cancellation of the derogation from the submission of a mandatory purchase public offering provided for in article 19 (6<sup>th</sup> paragraph) above.
- fails to proceed with the amendment to their offer project provided for in article 33 (1<sup>st</sup> paragraph).

Any person who fails to comply with the procedures provided for competitive public offerings or for an overbid in contravention of the provisions of article 44 above shall be liable to the same penalties.

**Article 63:** Any initiator who fails to comply with their irrevocable commitments relating to the realization of a public offering in contravention of the provisions of the 3<sup>rd</sup> paragraph of article 24 above shall be liable to imprisonment from three (3) to six (6) months and a fine from five hundred thousand (500,000) to one million (1,000,000) dirhams or only one of these two penalties.

**Article 64:** Any initiator who does not submit a copy of their public offering project and their information document to the target company when the latter does not adhere to their objectives and intentions on the same day of the submission of their public offering project to the CDVM, in contravention of the provisions of the 3<sup>rd</sup> paragraph of article 35 above shall be liable to imprisonment from two (2) months to six (6) months and a fine of fifty thousand (50,000) to one hundred thousand (100,000) dirhams or only one of these two penalties.

**Article 65:** The initiator of an offer who does not establish and submit for approval by the CDVM a complementary information document in contravention of the provisions of article 45 above shall be liable to imprisonment from one (1) month to six (6) months and a fine of fifty thousand (50,000) to one hundred thousand (100,000) dirhams or only one of these two penalties.

**Article 66:** The following shall be liable to imprisonment from three (3) to six (6) months and a fine of five hundred thousand (500,000) to one million (1,000,000) dirhams or only one of these two penalties:

- the initiator and, if applicable, the persons with whom they act in concert, which trade on the market of the target company's securities or on the market of securities issued by the company whose securities are proposed in exchange in contravention of the provisions of article 49 above;

- the initiator and, if applicable, the persons with whom they act in concert, who purchase securities of the target company at a price higher than that of the purchase public offering in contravention of the provisions of the 2<sup>nd</sup> paragraph of article 51 above;
- the target company and the initiator who do not strictly limit the information they disseminate to the public to the terms and elements contained in the information document(s) referred to in article 35 above or who mislead the public, in contravention of the provisions of the first paragraph of article 52 above;
- the target company and persons acting in concert with it, if applicable, who trade, either directly or indirectly, in securities of the target company in contravention of the provisions of article 53 above;
- the target company as well as the initiator, individual or legal entities holding directly or indirectly at least 5% of the capital or voting rights of the target company and any other individuals or legal entities acting in concert with the latter, who do not report to the CDVM after each trading day the purchase and sale operations they have carried out on the securities concerned by the offer as well as any operation having the effect of transferring immediately or in the future the ownership of the securities or voting rights of the target company, in contravention of the provisions of article 54 above;
- Anyone who implements a capital increase in contravention of the provisions of article 55 above;
- A target company that increases its treasury shares in contravention of the provisions of article 57 above;
- The target company which, in contravention of the provisions of the 2<sup>nd</sup> paragraph of article 58 above, does not proceed with the approval by its general meeting of some of the decisions referred to in the first paragraph of the said article 58, upon request of the CDVM.

**Article 67:** In the case of a legal entity, the penalty of imprisonment provided for in articles 62 to 66 above shall apply to any member of its administrative, management or executive bodies convicted for having committed one of the infringements provided for in the said articles.

The fine provided for in the said articles 62 to 66 may be imposed on the legal entity concerned, or on any member of its administrative, management or executive bodies convicted for having committed one of the infringements provided for in the same articles.

## **TITLE VIII**

### **MISCELLANEOUS PROVISIONS**

**Article 68:** This law shall enter into force as of the date of its publication in the Official Gazette.

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