

Dahir no. 1-12-55 of 14 Safar 1434 (28 December 2012) enacting law no. 44-12 on public offering and information required of legal entities and bodies making public offering.

PRAISE TO GOD ALONE!

(Great Seal of His Majesty the King Mohammed VI)

Let it be known hereby - May God elevate and strengthen the content!

That our Sherifian Majesty;

Having regard to the Constitution, particularly articles 42 and 50,

HAS DECIDED AS FOLLOWS:

It is promulgated and will be published in the Official Gazette, following this Dahir, the law no. 44-12 relating to public offering and information required of legal entities and bodies making public offering, as adopted by the House of Representatives and the House of Counsellors.

Done in Agadir, on 14 Safar 1434 (28 December 2012).

For countersignature:

The Prime Minister,

ABDEL-ILAH BENKIRAN.

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Law no. 44-12

on public offering and information required of legal entities and bodies making public offering

TITLE ONE

PUBLIC OFFERING

Article One

Subject to the provisions of article 3 below, a public offering shall consist of:

- the admission of a security, as defined in article 2 of the Dahir no. 1-93-211 of 4 Rabii II 1414 (21 September 1993) relating to the Stock Exchange, units of securitization collective investment funds and vehicles investing in risk capital on the Stock Exchange or on any other regulated market;

- the issue or transfer of securities referred to above to the public, by using, either directly or indirectly, canvassing, or announcing, or through a financial intermediary.

The provisions of this law are applicable regardless of the nationality or the registered office of the issuer or the transferor of the securities referred to in paragraph 1 above.

However, legal entities not having their registered office in Morocco and natural persons not residing in Morocco can only make public offering after prior authorization of the administration.

This authorization is subject to compliance of these operations with national strategic and economic interests.

These interests as well as the procedure for granting this authorization are specified according to criteria set by administration regulation.

Article 2

The following terms shall mean:

1- Financial instruments:

a) Capital securities represented by shares and other securities that grant or may grant access, directly or indirectly, to the capital or to voting rights, transferable by registration or by delivery;

b) debt securities each of which represents a debt claim on the legal entity that issues them, transferable by registration or by delivery, excluding commercial bills and certificates of deposit ;

c) units or shares of undertakings for collective investment in transferable securities governed by the legislation in force;

d) units and debt securities issued by securitization collective investment funds, governed by law no. 33-06;

e) units and shares of vehicles investing in risk capital governed by law no. 41-05;

f) derivatives governed by the legislation in force.

2- *Regulated market*: the market of financial instruments established by law and ensuring a smooth operation of trading. The rules of this market must set in particular the conditions of market access and admission to listing, the provisions for organization of transactions, the conditions for suspending trading in the financial instrument concerned and the rules relating to registration and announcement of said trading.

3- *Announcement*: any communication, in any form and by any means, to the public, including invitation to subscribe or purchase financial instruments and/or disclosure of the terms and conditions of subscription or acquisition. For the purposes of this paragraph, legal publications are not deemed an announcement.

4- *Financial canvassing*: any unsolicited contact, by any means whatsoever, with a natural person or a legal entity in order to obtain an authorization on the execution of a subscription, purchase, exchange or sale of financial instruments as defined in this article. It is also considered as an act of financial canvassing, regardless of the person initiating this act, the fact of physically visiting persons at their home, their workplace or in places not intended for the marketing of the transactions referred to in this paragraph, for the same purposes.

5- *Financial intermediaries*: the brokerage firms, banks, insurance and reinsurance companies or any other institution the purpose of which is the investment or financial advisory, and the list of which is set by the administration, upon the proposal of the Moroccan Securities Ethics Council (CDVM).

Article 3

Shall not be treated as a public offering:

1. the issuance and transfer of State issued securities;
2. the admission of a derivative on a regulated market;
3. the issuance or transfer of securities to a restricted number of qualified investors, as defined in the second paragraph of this article, provided that:

- the number of investors shall not exceed a number set by the administration upon the proposal of the CDVM;
- the qualified investors trade for their own account;
- the operation is executed without announcement;
- the issuer keeps a special register of the operation indicating the identity of subscribers and purchasers, as well as all transactions in securities subject of the operation and,
- the securities concerned shall be transferred, under nullity penalty as of right, only to other qualified investors. The issuer shall communicate a copy of the aforementioned special register to the CDVM, at any time and at the request of the latter. Only investors recorded in this register can avail the holding of securities related to the operation.

The conditions laid down in this paragraph 3) must be respected for a period of at least twenty-four (24) months from the date of the issuance or the initial transfer of securities.

A qualified investor is a legal entity or a body with the necessary expertise and means to understand the risks associated with transactions in financial instruments. The list of qualified investors is determined by the CDVM.

Shall be considered qualified investors:

- banks ;
- undertakings for collective investment in transferable securities, as governed by the legislation of the said bodies ;
- insurance and reinsurance companies, as governed by law no.17-99 on the Insurance Code ;
- retirement and pensions funds ;
- Deposit and Management Fund (CDG);
- companies investing in risk capital, as governed by the legislation of the said bodies.

The legal entity or the body claiming the benefit of the provisions set forth in 3) of the first paragraph of this article shall transmit a complete file to the CDVM concerning the proposed operation before it is launched, in accordance with the terms and conditions set by the CDVM.

The benefit of the application of the said provisions is effective only with the consent of the CDVM which ascertains whether the conditions laid down in 3) of the first paragraph above have been met. The CDVM shall notify the party concerned of such consent within ten (10) working days following the receipt of the

complete file by the CDVM. The refusal must be justified. Any request for further information or documents must be accomplished within ten days (10) from the date of this request.

If the conditions on the transfer of securities issued as provided for in 3) of the first paragraph of this article are not met, the president of the commercial court, acting in summary judgement, upon the request of the CDVM or any party concerned, may order the issuer to suspend the transferee's exercise of all pecuniary rights and other rights attached to the securities acquired. The suspension shall be lifted after the CDVM ascertains cancellation of the transfer.

TITLE II

INFORMATION REQUIRED OF LEGAL ENTITIES AND BODIES MAKING PUBLIC OFFERING

Article 4

Without prejudice to any other disclosure requirements emanating from the specific legislations and applicable regulations thereof, any legal entity or body making public offering shall be subject to the disclosure requirements set forth in this law:

- at the time of public offering and;
- as long as the equity securities, as provided for in a) of 1) of the article 2 above, are listed on the Stock Exchange or as long as such securities are distributed to a number of shareholders or unitholders set out by the administration, after the CDVM advice;
- and throughout the lifetime of the debt securities, as provided for in b) of 1) of article 2 above.

The legal entity or the body making public offering shall immediately notify the CDVM of change with regard to the situations provided for in the first paragraph above.

The information supplied to the public by legal entities or bodies making public offering must be accurate, precise and authentic.

Article 5

Subject to the provisions of article 8 below, any legal entity or body making public offering is required to prepare an information document as set by the CDVM. Prior to publication and distribution, this information document must be endorsed by the CDVM.

Any information disclosed to the public after receiving the CDVM's approval, within the framework of public offering, must be consistent with the information included in the document endorsed by the CDVM.

Article 6

Subject to the provisions of article 8 below, any legal entity or body making public offering is required to publish, for this purpose, an extract from the information document referred to in article 5 of this law in a journal of legal notices or any other medium of publication specified by the CDVM according to the conditions it sets.

Article 7

Without prejudice to the provisions of articles 9, 10, 11, 12, 14 and 15 below, dissemination by the legal entity or body making public offering of any information relating to the proposed operation is prohibited during the filing of the information document provided for in article 5 above and its publication after obtaining the CDVM approval.

Article 8

The information document provided for in article 5 of this law is not required in the following cases:

- the issue or transfer of securities guaranteed by the State;
- free allocation of equity securities by capitalization of reserves, profits or issue premiums;
- the issue of equity securities resulting from the conversion or redemption of debt securities issued by means of public offering;
- the issue of shares as a substitute of the same category already issued, if the said issue does not lead to an increase in the capital of the issuer;
- the issue or transfer of financial instruments, without announcement, reserved exclusively for managers of the issuer or its subsidiaries under article 143 of law no. 17-95 on public limited companies.

The legal entity or body being exempted from the preparation of the information document provided for above is required to inform the CDVM of the nature and terms of the operation before it is launched, in accordance with the terms and conditions set by the CDVM.

The exemption is effective only under the approval of the CDVM which makes sure that the operation matches one of the cases referred to in the first paragraph of this article. The CDVM's approval is notified to the party concerned within ten (10) working days following the receipt of the complete application in accordance with the abovementioned terms and conditions.

Refusal of the exemption must be motivated.

For the purposes of implementing this article, managers shall mean, any person who, in any capacity whatsoever, participates in the management of the company or its subsidiaries. This concerns, particularly, the chairman and chief executive officer, chief executive officers, deputy chief executive officers, members of the management board, the secretary general, directors, as well as any person who performs, permanently, similar to the aforementioned functions. Members of the supervisory board and the board of directors shall be deemed managers.

Article 9

Any legal entity or body intending to make public offering outside of Morocco is required to inform the CDVM fifteen (15) working days before launching the operation. It shall submit to the CDVM the information documents prepared within the framework of the said operation and inform it of the disclosure requirements where appropriate under the foreign legislation. The information transmitted to investors abroad must be under the same conditions in Morocco, pursuant to the terms and conditions set by the CDVM.

Article 10

Legal entities or bodies making public offering must release an annual financial report. The list of the documents contained in this report is set by the CDVM.

The release of the report provided for in the previous paragraph must, also, include the statutory auditors' report on the annual financial statements, the consolidated financial statements if need be, as well as the special reports provided for in articles 58 and 97 of law no. 17-95 abovementioned, if need be.

Shareholders or their representatives may also obtain copies of these documents at the registered office of the company, as well as the list of shareholders and the fraction of the capital each one of them holds.

When amendments are made to the documents published above, the said legal entities are required to publish them, together with a summary of the statutory auditors' report on the said amendments.

Article 11

Legal entities or bodies making public offering must release a financial report for the first semester of each financial year. The list of the documents contained in this report is set by the CDVM.

The release of the report provided for in the previous paragraph must also contain an opinion of the statutory auditors on the limited review of half-yearly statements presented in consolidated form if need be.

Article 12

Legal entities or bodies making public offering must release activity and financial indicators on a quarterly basis.

This obligation is not applicable to risk capital companies governed by the legislation in force.

Article 13

The content, time limits, terms and forms of the releases referred to in articles 10, 11, 12 and 15 of this law are set by the CDVM.

Article 14

The legal entities or bodies making public offering by issuing debt securities, or whose equity securities are listed on one of the Stock Exchange segments, and which control other companies, within the meaning of article 144 of the abovementioned law no. 17-95, must draw up and certify their consolidated statements pursuant to the legislation in force or, failing that, pursuant to the international accounting standards (IAS/ IFRS). They also must have the said statements approved by the corporate body empowered to this effect, under the same time limits and terms as the corporate statements.

Article 15

Legal entities or bodies making public offering are required to publish in a legal announcements newspaper and in any other publication medium required by the CDVM, as soon as they are informed thereof, any information relating to their organization, commercial, technical or financial situation, and which may have a significant influence on the market value of their securities or have an impact on the assets of security holders.

Under their liability, legal entities or bodies making public offering may provisionally delay the dissemination of an important information, if:

- the dissemination of the said information may affect the interests of the issuer;
- the information remains confidential until its release under the conditions of the 1st paragraph of this article and;
- delayed dissemination of the said information will not mislead the public.

They inform the CDVM without delay, which may order the immediate release of the said information.

Article 16

The documents and information provided for in articles 10, 11, 12, 14 and 15 of this law, as well as their release date and the identification of the publication medium or media used must be communicated by the legal entities or bodies concerned to the CDVM in accordance with the procedures it sets.

Title III INFORMATION CONTROL

Article 17

The CDVM ensures compliance, by the legal entities and bodies making public offering, with the disclosure requirements provided for by this law and by any other legislation or regulation in force.

Article 18

The CDVM may request, from the initiator of a public offering and at the expense of the latter, any documents, explanations or justifications on the content of the information document provided for by article 5 above or by any other particular legislation. For this purpose, it may appoint an expert independent of the initiator, to carry out, on behalf of the CDVM and at the charge of the initiator, technical checks on the information provided by the latter in the information document.

It indicates to the initiator of the public offering the statements to be amended or the additional information to be inserted in these documents, in order to bring them into conformity with the legislation in force.

If the initiator does not meet the CDVM's request, the approval of their information document may be refused.

Approval or rejection must be communicated to the initiator within a time limit that may not exceed two (2) months as of the date of reception of the complete application by the CDVM. Any rejection must be motivated.

Any request for additional information or documents or appointment of an independent expert has suspensory effect on the deadline provided for in the previous paragraph.

Article 19

The CDVM may, at any time, request from the statutory auditors of companies making public offering to provide the documents on which the certification of financial statements was based. It may also ask them to proceed with any additional analysis or verification, of the same companies it may deem necessary.

The provisions of the previous paragraph also apply to statutory auditors of bodies and entities that are subject to the CDVM's control, within the meaning of article 4-1 of Dahir law no. 1-93-212 relating to the Moroccan Securities Ethics Council and the information required from legal entities making public offering.

Article 20

When inaccuracies or omissions have been identified in the implementation of the disclosure obligations referred to in article 16 of this law, after their release, the CDVM may require the entities or bodies concerned to proceed with amending publications, without prejudice to the disciplinary or pecuniary sanctions provided for by the legislation in force.

The CDVM may make public the observations it has prepared or the information it deems necessary.

Article 21

The CDVM may, at any time, order the immediate termination of a public offering, if there is evidence that an information document has not been established for that purpose and/or if the prepared information document has not obtained the CDVM approval.

If the injunction provided for in the first paragraph of this article remains ineffective, the persons performing this operation are liable to the penal sanctions provided for in article 23 of this law.

Article 22

Without prejudice to the sanctions provided for by the legislation in force, and before the settlement of a public offering, the CDVM may withdraw the approval of the information document at any time during the said offering if it has been found that the document contains incorrect or misleading information or omissions liable to mislead the public or contains information not conforming to the document endorsed by the CDVM.

The withdrawal of the authorization automatically entails the cancellation of the operation.

TITLE IV PENAL SANCTIONS

Article 23

Any natural person, acting on his behalf or on behalf of a legal person, who has realized, directly or via an intermediary, a public offering, without the information document provided for in article 5 of this law has been established or before it has received the CDVM approval, will be imprisoned for three (3) months to one year (1) and fined twenty thousand (20 000) to five hundred thousand (500 000) dirhams or only one of these penalties.

The same sanctions apply to any person who does not publish the extract of the aforementioned information document under the conditions provided for in article 6 of this law.

Any natural or legal person proceeding with financial canvassing by violating the provisions of article 28 of this law is liable to the same penalties.

In the event of a repeat offence, the penalties provided for in the first paragraph of this article shall be doubled.

In the case of a legal entity, the imprisonment sentences provided for in this law shall apply to members of its administrative, operational or management bodies.

The fines provided for by this law may be imposed on the concerned legal entity or on members of its administrative, operational or management bodies.

Article 24

Is considered a repeat offender, under article 23 above, any person committing an offence within the five (5) years following an irrevocable condemnation for similar acts.

TITLE V OTHER SANCTIONS

Article 25

The chairman of the CDVM may impose a warning, reprimand and/or a financial penalty that may not exceed two hundred thousand (200 000) dirhams on any legal entity or body referred to in articles 3 (3rd and 4th paragraphs), 4 (2nd and 3rd paragraphs), 8 (2nd and 3rd paragraphs) 9, 10, 11, 12, 15, 16 and 19 in case they do not abide by their obligations under the said articles. When profits have been realized, this sanction may be equal to five times the amount of the said profits.

Article 26

The CDVM may impose a financial sanction that may be equal to five times the amount of the payment due, and may not

nonetheless be less than two hundred thousand (200 000) dirhams, on any financial intermediary who participates in the canvassing or in the placement of financial instruments within the framework of public offering, for which the issuer or the transferor:

- failed to obtain the prior approval of the administration, as provided for in article one, last paragraph, of this law;
- failed to prepare the information document referred to in article 5 of this law or failed to have it endorsed, beforehand, by the CDVM.

Financial intermediaries having participated in the canvassing, placement and marketing of financial instruments in the context of the said operation, as well as the persons referred to in articles 23 and 24 of this law, are severally liable for any financial damage incurred by the persons having acquired or subscribed for the said financial instruments.

Article 27

When a public offering is carried out without the preparation of the information document provided for in article 5 or before its endorsement and publication, the content of the published document does not comply with that of the information document endorsed by the CDVM or the issuer does not abide by the characteristics of the proposed operation, contained in the information document referred to, the CDVM, or any person concerned, may, without prejudice to any claims for damages and the sanctions provided for by the legislation in force, file a lawsuit, either for the nullity of the concerned operation, or for the nullity of one or many transactions.

The provisions of paragraph one above are applicable if the public offering is carried out based on an information document containing false or misleading information.

The CDVM may order, on its own motion or at the request of any party concerned, a price revision in the cases referred to in the first and second paragraphs of this article, provided that no nullity legal action is initiated, in application of the provisions of the first to the second paragraph of this article.

TITLE VI MISCELLANEOUS PROVISIONS

Article 28

Only financial intermediaries, referred to in article 2 above and natural or legal persons empowered by the said financial intermediaries, are entitled to perform financial canvassing.

Persons entitled to carry out financial canvassing must already have registered with the CDVM. The terms and conditions for their registry are set by the CDVM.

Article 29

The processing of any application submitted to the CDVM under articles 3, 5 and 8 of this law implies prior payment of a commission.

This commission remains refundable even in case the authorization is withdrawn or rejected or in case the envisaged operation is cancelled.

The commission rate is set in accordance with the type of the proposed operation. This rate may not exceed one per thousand of the operation amount.

Failure to pay the commission in the prescribed time limits leads to the application of a surcharge.

The rate of increase may not exceed two percent (2%) per month of delay or part thereof calculated based on the amount of the commission payable.

The terms and conditions of the payment of the commission, as well as the rate of increase, are set by the administration, on a proposal of the CDVM.

Article 30

The list of legal notices is set by the administration for the purpose of enforcing this law, Dahir no. 1-93-212 of 4 Rabii II 1414 (21 September 1993) relating to the Moroccan Securities Ethics Council and to information required from legal persons making public offering, and Dahir no. 1-93-211 of 4 Rabii II 1414 (21 September 1993) relating to the Stock Exchange.

Article 31

The provisions of this law will be in force as of the effective date of the regulatory text necessary to its application. The regulatory text shall remain in force, duly published and adopted pursuant to Dahir law no. 1-93-221 of 4 Rabii II 1414 (21 September 1993) relating to the Moroccan Securities Ethics Council and to information required from legal entities making public offering, for all provisions not contrary to this law until being replaced in accordance with the provisions of the said law.

As of the same date, the following provisions will be cancelled:

- titles II, III and V of the aforementioned Dahir no. 1-93-212 of 4 Rabii II 1414 (21 September 1993);
- articles 153, 154 and 156 of the law no. 17-95 relating to public limited companies, as amended and completed.

The text in Arabic was published in the general edition of the "Official Gazette" no.6120 of 12 Rabii I (24 January 2013).