

REPUBLIC OF CAPE VERDE

DRAFT

ALTERATIONS TO LAW 43/III/88 Of 27 December

PROPOSAL TO ALTER LAW N.º 43/III/88 OF 27 DECEMBER

JUSTIFICATION NOTE

1. Law n.º 43/III/88, of 27 December, altered by Law n.º 32/V/97 of 30 June, indicates in number 2 of its article 3 that “the international financial institutions cannot, under any circumstance, insurance and pension fund management activity in accumulation with other international financial operations”.

This norm is outdated today by the international evolution verified in the management of financial assets, that is entrusted to companies whose prior vocation was turned to the exclusive administration of one of its types, as is better described in the preamble of the law that regulates the financial management companies.

Thus, the viability of this project, as well as that of the regulating law for the Collective Investment Organisms (specifically in its article 126), demands a modification of the norm transcribed above.

2. On the other hand, a restrictive interpretation has been given to number 2 of article 2 of the law under reference, that neither its spirit nor its letter consent to. In truth, what is proposed to be safeguarded interdicting the International Institutions (IFI) dealing with residents in Cape Verde is the exportation of capital through these institutions, namely by the collection of local savings. The movement of capital in the inverse direction must be liberalized, restricting the prior authorization of the Minister of Finance to the cases not especially foreseen in the norm that we propose to alter.

3. Finally, reference is made that the liberalization of relations with residents forces the revision of the fiscal benefits attributed, whether to the international financial institutions, or to their clients. It is, therefore, necessary, to make additions to article 15.

LAW N.º /VI/04
of

By mandate of the People, the National Assembly, under the provisions of subparagraph b) of article 174, in subparagraph h), number 2 of article 176, all of the Constitution, decrees the following:

Article 1.º
(Alterations)

Article 2, number 2 of Article 3 and Article 15, all of Law n.º 43/III/88, of 27 December, altered by Law n.º 32/V/97 of 30 June, hereinafter will read as follows:

“Article 2 (Object of the international financial institutions)

1. (...)
2. *The financial operations in which international financial institutions are only beneficiaries of guarantees or other forms of contracted risk protection between said international financial institution and a non-resident one, do not constitute financial operations with residents.*
3. *The international financial institutions may also perform with residents:*
 - a) *Credit concession operations in foreign currency to finance investments in immobilized assets;*
 - b) *Promotion of the admission of mobiliary securities emitted by residents to be quoted in organized market and market maker operations;*
 - c) *Te purchase and sale of mobiliary securities in the secondary markets in Cape Verde;*
 - d) *Other financial operations, when relevant for the development of Cape Verde and previously authorized by the Minister of Finance, having heard the Bank of Cape Verde.*
4. *(actual nº 3)*
5. *(actual nº 4).*

Article 3. º*(Permitted international financial operations)*

1. (...)
 - a. (...)
 - b. (...)
 - c. (...)
2. *The international financial institutions cannot, under any circumstance, exercise an insurance activity in accumulation with other international financial operations, save the management of pension funds.*

Article 15° (Fiscal benefits to international financial institutions)

1. (...)

2. *Exemption from the IUR foreseen in subparagraph c) of the preceding number does not apply to the operations performed with residents, who should be segregated by accounting, relegating to the calculation of their taxable profit the respective direct costs and the imputation of the structural costs that correspond to the proportion of the profits from these operations in the total profits generated in the exercise under consideration.*

3. *The operations performed with residents do not benefit from the exemption of the stamp tax."*

Article 2.°
(Effective date)

This law goes into effect immediately.

Approved on _____

The President of the National Assembly, Aristides Raimundo Lima.

Promulgated on _____

Publish it.

The President of the Republic, Pedro Verona Rodrigues Pires.

Signed on _____

The President of the National Assembly, Aristides Raimundo Lima.