

A Brief Approach to Enforcement and Protection of Investors in the Angolan Securities Market

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In order for a functional and efficient securities market to exist, investors must be exposed to an environment of security and legal certainty, materialized not only in the existence of legal instruments but also in practical mechanisms of risk management for the protection of their interests, Otherwise investors would choose to divest or not to invest their income on the market.

Therefore, as an instrument of a favorable business environment, it is necessary to create tools that protect investors against financial fraud and the reckless management of investor assets. These instruments must transcend the mere legal consecration of rules of conduct, since it is essential to promote their effective and concrete application through enforcement mechanisms and this plays a fundamental role for the recovery or maintenance of investor confidence in the financial system and Institutions.

Enforcement should not only be viewed from a supervisory perspective, it is not a finished concept, its meaning and scope is under construction and it includes the regulatory, supervisory and sanctioning powers as well as the use of the compliance function.

The concept of enforcement must also introduce the element of financial education and this is based fundamentally on three pillars: information, education and guidance. With the information, it is intended to provide investors with specific evidence and knowledge so that they are aware of opportunities, alternatives and consequences a

Since 2014, the Capital Markets Commission (hereinafter CMC) has started to develop a structured financial literacy program in the areas of dissemination of the importance of the securities market and its role; Insertion of financial content and capital market into the regular system of education; Dissemination and popularization of the main financial concepts and the capital market; Approximation to the financially illiterate population; And the diagnosis and monitoring of the level of financial education of the Angolan population.

Similar to what happens in Brazil, Spain and the United States of America, a national financial education program is being developed in Angola, which integrates not only the matters of action of the three regulators of the financial system, but also matters of a tax nature. This global program is responsible for the regulatory agents of the financial and fiscal system, as well as the Executive, represented by the Ministries of Education and Finance, and includes a set of public and private partners so that each citizen (actual or potential investor or Taxpayer) is able to improve their understanding of financial instruments and concepts and, through information, to acquire instruction and develop the skills and confidence to make informed choices, to take other effective measures and consequently to improve their well- And the State (as administration and as a Community), by increasing investment and tax contributions.s a result of decisions; With education, in general terms, aims to develop in investors the skills required to make responsible decisions; And with the guidance is sought to adopt investors tools and warnings so they can make their best decisions.

Regarding the power of regulation, in the scope of enforcement, this focuses on the production and publication of legislation appropriate to the reality and challenges of the market and investors. In this context, investor protection is achieved through the creation of clear and fair rules of conduct enabling market participants to be familiar with the rules of the game in advance by means of rules of operation, operations and prudence for the players. In Angola, CMC has adopted a regulatory process dominated by the principle of transparency, which establishes the obligation to carry out a public consultation in order to collect the opinion and sensitivity of the recipients of the standards in production and the implementation of this act transforms the regulatory process into a democratic act And of commitment, on the one hand, on the one hand, regulation is of a bilateral nature, that is to say co-regulation, and, on the other, market players are called upon to intervene or, therefore, To observe the rules of the market in which they will be addressed. The power of supervision, as a facet of enforcement, is to monitor the behavior of agents in the face of pre-existing standards in the market. In this context, investor protection is embodied in continuous follow-up and monitoring (face-to-face, distance, prudential and behavioral) of compliance with standards pre-established by the market regulator and by self-regulatory entities.

The process of supervising the securities market in Angola is changing paradigm in order to move from legal to risk based supervision. For the implementation of risk-based supervision, CMC is improving its ability to identify problems at an early stage, take remedial action and, if necessary, apply proportionate and dissuasive sanctions.

The compliance function, as an instrument of enforcement and, consequently, an investor protection mechanism, imposes on operators compliance with legal and ethical precepts, and assumes the nature of an instrument to prevent exposure to regulatory or reputational risks. With the aim of ensuring transparency and proper conduct of the business and, in this way, confer confidence and security to investors.

The requirement to implement the compliance function allows investors (acquirers of shares, bonds and other securities of issuers) to make their

investments with greater security and confidence as they relate to issuers and brokerage agents who have an organizational structure And internal control of robust and consolidated management. And it is precisely at this point that compliance presents itself as a enforcement facet, inasmuch as through it the CMC has demanded and enforced compliance with rules regarding internal control, organizational structure, management reporting and conflicts of interest . With regard to investor protection, it is through corporate governance that CMC has imposed new rules on issuers (publicly-traded companies), brokers and other market operators that allow greater internal control of managers by shareholders (investors) and Other bodies (such as: fiscal council, external auditors and non-executive directors), which leads to better management and adoption of a solid and robust organizational structure. CMC has also required these operators to adopt efficient mechanisms to identify, eliminate or manage and disclose clearly and clearly any potential or actual conflicts of interest.

The sanctioning power implies that the market supervisory entity has the capacity to dissuade or impose the correction of violations of the securities laws; Impose effective, proportionate and dissuasive administrative sanctions; And to order court orders or bring civil and / or criminal actions to those who violate market rules and cause damage to investors.

In Angola, the Securities Code establishes a regime consisting of three crimes: the crime of insider trading, provided for in article 387; Crime of manipulation of the market, provided for in Article 388; And the crime of disobedience, provided for in article 391. They also have a specific chapter on sanctioning matters, grouped in main sanctions and ancillary sanctions. The main sanctions are graduated, depending on the nature and gravity of the offense, or of being faced with a crime or a transgression.

We believe that for the effective protection of the investor, as well as for the regular and efficient functioning of the market, it is not enough to simply sanctify these matters, its effective and concrete application is necessary, because here, due to its effect for the operators, the Enforcement reaches its apex of completion and adoption. And we think this is the biggest challenge put to CMC.