

REPUBLIC OF CAPE VERDE

DRAFT LEGISLATION ON

ON

FINANCIAL LEASING COMPANIES

- The *factoring*

DECREE-LAW N°...../04

Of _____

Law n° 3/V/96 of 1 July foresees the existence of the so-called credit yielding enterprises (*factoring*).

This law consecrates the respective legal framework. Considering that the operations they engage in is only financial in nature, only one of the types of the vast category of credit yielding, it is opted to give such operations, (called *factoring*) the denomination of “financial yielding”. Their importance of their pretended development is recognized, now that, in the more modern frameworks, they tend to expand.

In truth, there a conviction that, given the diverse functions they can perform – collection and

(Scope)

This law regulates the financial yielding companies, also usually called “factoring”.

Article 2º

(Actividade de cessão financeira)

- 1 – The financial yielding credit activity consist in the acquisition of short-term credits, derived from the sale of products or services rendered, in the internal or the external market.
- 2 – Included in the financial yielding activity are complementary actions of collaboration between the activities referred to in Article 4 and their clients, specifically of credit risk studies and of legal, commercial and accounting support to the good management of the transacted credits.

Article 3º

(Other notions)

For the purposes of this law, the following designations apply:

- a) Factor or yielder: the entities referred to in nº 1 of Article 4;
- b) Adherent: the stakeholder in the financial yielding contract who yields credit to the factor;
- c) Debtors: the third party debtors of the credits yielded by the adherent to the yielder or “factor”.

Article 4º

(Exclusiveness)

1 – Only the financial yielding companies and the banks may habitually celebrate financial

- e) Supplies or other forms of loans and advances between one company and the respective partners;
- f) The Treasury operation, when legally permitted, between companies that are in a dominant relationship or in a group.

Article 7

(Factoring contract)

1- The *factoring* contract is always celebrated in writing and it must contain the set of *factor's relationship* with the respective adherent.

2 – The transmission of credits under the *factoring* contracts must be accompanied by the respective invoices or separate equivalent document, computerised document or exchange title.

Article 8°

(Exchange operations)

The financial yielding companies may perform exchange operations necessary to the exercise of their activity, under the terms of the law.

Article 9°

(Payment of transmitted credits)

- 1. Payment to the adherent or of the credit transmitted by him/her must be made on the average due dates presuming that they are stipulated contractually.

2. The factor may also pay all or part of the credits yielded before the due average or effective date or permit, by posting of a guarantee or other credible means, the payment in advance by means of another credit institution.

3.