

Another step taken towards putting into operation the Voluntary Carbon Market in Portugal

Ministerial orders laying down rules, criteria and requirements for implementation of the Voluntary Carbon Market

Ministerial orders defining specific and necessary aspects for the implementation of the Voluntary Carbon Market ('VCM') in Portugal, pursuant to Decree-law no. 4/2024 of 5 January (which creates the VCM in Portugal, encouraging projects that reduce or sequester greenhouse gas emissions throughout the country), have been published on 2 October

ANA LUÍSA GUIMARÃES

Partner, Public Law and Regulated Sectors Area, Gómez-Acebo & Pombo

JOANA ARAGÃO SEIA

Lawyer, Public Law and Regulated Sectors Area, Gómez-Acebo & Pombo

Long awaited, these ministerial orders respond to the legislative mandate of Decree-law no. 4/2024, which referred to government regulation the determination of key aspects for ensuring the attractiveness, reliability and operability of the VCM:

— **Ministerial Order no. 239/2024/1**, in force as of 3 October, sets out fee amounts to

be charged within the scope of the VCM by the supervisory and management bodies of the registration platform.

— **Ministerial Order no. 240/2024/1** defines the qualification criteria to carry out the activity of independent project verifier ('VCM verifier'). However, this order will only come into force 90 days after its publication.

- **Ministerial Order no. 241/2024/1**, in force as of 3 October, lays down the general requirements and functionalities of the VCM's electronic registration platform.

- **VCM verifiers**

VCM verifiers' role in the initial validation and periodic verification of greenhouse gas ('GHG') mitigation projects is essential to ensure the integrity and transparency of these projects and, consequently, trust in this voluntary market.

Ministerial Order 240/2024/1 ('Order') introduced the requirement of a qualification certificate for independent verifiers, to be issued by *ADENE - Agência para a Energia* (Portuguese Energy Agency) as the body that manages the qualification of VCM verifiers.

The qualification of VCM verifiers will be carried out according to the *categories* associated with the six sectors of activity listed in the Order: energy, industrial processes, agriculture, land use, wetlands and marine areas, and waste.

The *criteria for access* to the VCM verifier qualification are defined, including academic training relevant to the category for which the candidate is applying and relevant and proven professional experience (setting out the minimum experience required in the specific area of the sector of activity for which the candidate is applying).

The Order also defines the grounds of ineligibility to apply for the qualification and to carry out the activity of VCM verifier, as well as the grounds for cancelling the VCM

verifier qualification certificate, including the use of the certificate in categories for which the verifier is not qualified.

The balance between the necessary rigour in the qualification criteria for VCM verifiers (essential for the VCM's transparency and credibility) and ensuring that there are enough verifiers to energise the Portuguese VCM is critical at this early stage of the VCM's implementation.

- **The electronic registration platform**

The electronic platform must enable the registration of market agents and GHG mitigation projects and programmes, facilitate the issue, transfer and cancellation of carbon credits and ensure the transparency and integrity of the registered data, minimising the risk of double counting emissions.

The registration of market agents and carbon projects and programmes on the platform is compulsory and requires the submission of the information contained in Schedules I and II to Ministerial Order no. 241/2024/1 and the payment of the respective registration fees.

The body managing the platform is *ADENE - Agência para a Energia*, under the supervision of the *Agência Portuguesa do Ambiente* (Portuguese Environmental Agency).

- **Fees**

The amounts are fixed in respect of the fees due for: (i) opening and keeping an account on the registration platform; (ii) registering projects and programmes on the platform; (iii) transacting carbon credits; and

(iv) approving methodologies proposed by market agents.

These fees are intended to cover the operational and administrative costs associated with the maintenance and supervision of the VCM, and are charged by the platform's management body in accordance with the payment terms and conditions defined by said body.

In the case of programmes (projects made up of several individual carbon projects), a project registration fee exemption is envisaged for carbon projects carried out in priority areas, i.e. those that contribute to preserving natural capital and building a more adapted and resilient landscape, including reducing vulnerability to fires.

- **What's next?**

Following the publication of the aforementioned ministerial orders, there remains the creation and operation of the electronic platform and the entry into force of

Ministerial Order 240/2024/1 (on 2 January 2025), which sets out the criteria for the qualification of VCM independent verifiers.

The [VCM website](#) can already be consulted and, for the time being, only allows for the registration of expressions of interest to participate in the VCM through the presentation of projects, methodologies or the exercise of functions as VCM independent verifiers. The collection of expressions of interest, which will run until the end of 2024, aims to identify project promoters and other market players potentially interested in the Portuguese VCM, despite not being legally necessary to submit an expression of interest.

More importantly though, is the approval of the carbon methodologies referred to in article 10 of Decree-Law no. 4/2024, whose approval by the Portuguese Environment Agency ('APA') is awaited and on which the admissibility of carbon project typologies in the VCM depends.