COMISSÃO DE VALORES MOBILIÁRIOS
(SECURITIES AND EXCHANGE COMMISSION OF BRAZIL, CVM)
Rua Sete de Setembro, 111/2-5º e 23-34º Andares, Centro, Rio de Janeiro/RJ – CEP: 20050-901 – Brazil – Phone: (+55 21) 3554-8686
Rua Cincinato Braga, 340/2º, 3º e 4º Andares, Bela Vista, São Paulo/ SP – CEP: 01333-010 – Brazil - Phone: (+55 11) 2146-2000
SCN Q.02 – Bl. A – Ed. Corporate Financial Center, S.404/4º Andar, Brasília/DF–CEP: 70712-900 – Brazil -Phone: (+55 61) 3327-2030/2031
www.cvm.gov.br

Circular Letter No. 4/2020-CVM/SMI-SIN

Rio de Janeiro, December 11, 2020

To the
Directors responsible for CVM Instruction No. 617/19.

Subject: **Main improvements in AML/CFT/CPF processes associated with the entry into force of CVM Instruction No. 617/19.**

Dear Directors,

1. This Circular Letter aims to bring the main improvements in the Anti-Money Laundering/Countering the Financing of Terrorism/Countering the Proliferation of Weapons of Mass Destruction Financing [1] ("AML/CFT/CPF") processes associated with the entry into force of CVM Instruction No. 617/19 ("ICVM 617/19") in 10/01/2020, (except for articles 27 and 28 already in force since 12/05/2019, date of publication of the Instruction), as well as presenting the expectations of the Office of Market Surveillance ("Superintendência de Relações com o Mercado e Intermediários", SMI) and of the Office of Institutional Investor Relations ("Superintendência de Relações com Investidores Institucionais", SIN) about the steps expected by the obligated persons.

RISK-BASED APPROACH

2. In line with the governance of the Risk-Based Approach ("RBA"), persons subject to the securities AML/CFT/CPF rule must, within the limits of their attributions, identify, analyze and understand the risks of money laundering and terrorism financing ("ML/FT/PF") of their respective customers, products, services, distribution channels and relevant service providers, to further segment them minimally into low, medium and high, as determined by subsection II of art. 5 of ICVM 617/19, and based on existing information.

2.1. In situations of greater risk, and always in line with the AML/CFT/CPF Policy, pursuant to Chapter II of ICVM 617/19, it will be up to the person subject to the securities AML/CFT/CPF rule to seek additional information to that contained in the customer's record that may be available in the institution itself or in the respective Financial Conglomerate, or even with previously qualified third parties.

2.2. In any event, the terms set forth in Law No. 13,709/18, the "General Data Protection Law", ("Lei Geral de Proteção Dados", LGPD) clarify that the institution has a mandate for the possible prospection of this additional information, and it is hereby reiterated that the use of these inputs by the force person must not, for the purposes of the AML/CFT/CPF, exceed the scope of Laws Nos. 9,613/98, 13,260/16 and 13,810/19.

3. With the advent of ICVM 617/19, requirements were introduced related to guidelines from senior management that must be part of the AML/CFT/CPF Policy, innovating the provisions of ICVM 301/99, which was in effect from 08/FEB/1999 to 30/SEP/2020.

4. The respective rules, procedures and internal controls aimed at faithfully complying with the new Instruction, especially to mitigate the risks indicated in paragraph 2 of this Circular Letter, must (i) be aligned with the institutional risk-based approach set forth in said Policy, (ii) take into account the considerations presented in the Explanatory Note to ICVM 617/19[2], as well as (iii) observe the provisions of CMN Resolution 4,859/20[3] with regard to the proper implementation of communication channels, when applicable. The obligated institutions, according to art. 3 of ICVM 617/19, which are not subject to prior registration with the Central Bank of Brazil, should consider the voluntary adoption of the aforementioned channels since, in addition to being an important tool for the management of the risks dealt with herein, they are also considered by the SMI and by SIN as a good 'compliance' practice.

5. Nevertheless, the obligation to implement rules, procedures and internal controls aimed at meeting (i) measures aimed at the unavailability of goods, rights, and values as a result of United Nations Security Council ("UNSC") resolutions; and (ii) demands for international legal cooperation arising from other jurisdictions in accordance with current national legislation pursuant to Law 13,810/19, Decree 9,825/19 and articles 27 and 28 of ICVM 617/19, with the latter provisions being in force since the publication of the aforementioned Instruction.

6. Another important point is the requirement for the annual preparation of the Internal Risk Assessment (article 4 and ff of ICVM 617/19). In this way, and considering the transition process from the old to the new regulatory framework of the AML/CFT/CPF in the capital market, the first version of that report, which in turn will deal with the year 2020, must be completed by 30/APR/2021, considering the period immediately after the revocation of ICVM 301/99, that is, the period from October to December 2020.

"KNOW YOUR CUSTOMER" POLICY

7. In this regard, ICVM 617/19 also improved the "Know Your Customer" process by determining, in addition to the process of identification and collection of customer records data, the ongoing efforts aimed at collecting supplementary information and, in particular, the identification of their respective beneficial owner (See text of article 17 and Annex 11-A, article 3, sole paragraph, of ICVM 617/19).

7.1. This is because, considering that customer identification information is declared by the customers themselves, such information must be submitted to the participant's customer records data validation process.

7.2. At the core of this validation, there is the need to periodically consult the customer records of disabled people maintained by the CVM [4].
7.3. It should be noted that, if the minimum information required by ICVM 617/19 is not obtained, the participant must take steps, not only to validate the data that was informed but also to obtain the other data that was not informed.

7.4. If even so, the person subject to the securities AML/CFT/CPF rule does not have all the required information, this situation does not prevent the beginning of the business relationship.

7.5. However, this exceptional situation must be set forth in the respective AML/CFT/CPF Policy of the participant, including, as set forth in paragraph 1 of art. 16 of ICVM 617/19: a) reinforced monitoring; b) more careful analysis of the generated alerts; and, finally, c) assessment of the director responsible for ICVM 617/19, which can be verified, as to the interest in maintaining the relationship with the customer.

7.6. Among the steps to be taken by participants to validate customer records data, the importance of periodically consulting the CVM page for the list of participants who are temporarily prevented from operating in the securities market should be highlighted[5] . The frequency of this routine must be set forth in the respective AML/CFT/CPF Policy.

CUSTOMER AND INVESTOR

8. In this regard, it is important to highlight that the definitions of customer and investor complement each other in the Instruction since every investor will necessarily be a customer of at least one institution. Such concepts, “customer” and “investor”, to be observed by obliged entities, are those described in the Chapter on Definitions of ICVM 617/19, that is, in their narrower and broader meanings, respectively. And, for a better clarification of the purpose of using one or another term throughout the standard, we expose what follows.

8.1. Article 11 mentions the term “investor”, but it does not refer to everyone, but only to those with whom the institution maintains a “direct relationship”, that is, it refers to the concept of customer. Thus, the excerpt “The people mentioned in subsections I to III of art. 3 of this Instruction that have a direct relationship with the investor must identify him" can, for example, be read as "The persons mentioned in subsections I to III of art. 3 of this Instruction must identify the customer”.

8.2. Article 11, paragraph 1, and article 13, make explicit reference to "customers", which is why it is a provision that applies to institutions specifically in relation to their customers, that is, in a manner consistent with the text of article 11.

8.3. In addition, we clarify that by "direct relationship" the standard intended to clarify the situations in which the person subject to the securities AML/CFT/CPF rule effectively maintains a business relationship under the terms of what ICVM 505/11 has already addressed in subsection III of art. 1: (III) principal or customer: the natural or legal person, investment fund, investment club or non-resident investor, on whose behalf transactions with securities are carried out

9. The wording of ICVM 617/19, art. 2, subsections V and X, adapted the concept of customer to that of investor, maintaining the understanding of ICVM 505/11, and clarifying, for the exclusive purposes of AML/CFT/CPF, the more limited scope (kind) of the concept of customer and broader (gender) of the investor concept: (V) customer: an investor who maintains a direct business relationship with the persons mentioned in art. 3 of this Instruction; (X) investor: natural or legal person, collective investment fund or vehicle, or non-resident investor in whose name securities transactions are carried out.

CONSIDERATIONS ON INVESTMENT FUNDS

10. For investment funds, as a general rule, the distributor will be the service provider who will maintain a direct business relationship with the shareholder, and it is their duty to collect customer records information, maintain the customer records and adopt the steps set forth in its AML/CFT/CPF Policy to control and monitor the risk of ML/FT/PF with respect to its activities. The table below is intended to illustrate how each service provider that interacts with an investment fund should deal with this situation:

Fund Service Provider	**Customer**
Fiduciary administrator as long as he/she is not involved in the distribution of fund shares	Investment Fund
Asset Manager as long as he/she does not act in the distribution of fund shares	Investment Fund
Asset Manager of Exclusive Investment Funds or Funds that are required to consult shareholders on investment decisions	Shareholder
Distributor	Shareholder
Custodian and Bookkeeper	Investment Fund
Intermediate	Investment Fund and the Manager

10.1. It will be incumbent upon the fiduciary administrator who does not act in the distribution of investment fund shares and who does not have the shareholder as his customer under the terms of ICVM 617/19, to establish in his AML/CFT/CPF Policy the action of the distributor in order to verify that he has processes and adequate AML/CFT/CPF ("know your partner") mechanisms, establishing specific routines for this purpose, including the form of assessment and adequate periodicity.

10.2. The other service providers that operate in the investment fund market and that do not have a direct business relationship with the customer, that is, that do not distribute the vehicle shares, are not responsible for collecting and maintaining the shareholder's customer records information.

10.3. However, they are not exempt from evaluating the possibility of, in situations of greater risk, making use of the tools set forth in paragraph 1 of article 17 of ICVM 617/99, mainly to mitigate possible asymmetries in the risk-based approach with other persons subject to the securities AML/CFT/CPF rule with whom they interact and who relate directly to the shareholders.

10.4. In this scenario, it is reasonable to expect that, in adopting the RBA concept, the steps aimed at better understanding some of the shareholder's characteristics will be proportionally smaller than those that may be adopted by providers that have a direct business relationship with the shareholder, always respecting confidentiality or restriction of access set forth in the legislation. An example of this, which does not aim to exhaust this theme, is the consultation aimed at identifying investment funds whose beneficial owner is a politically exposed person ("PEP") or a non-profit company, pursuant to paragraph 2 of art. 5 of the Instruction, naturally without access to any confidential information.

10.5. To this end, the AML/CFT/CPF Policy of these institutions must define the criteria, scope, and steps that will be applied, always taking into account the necessary elements for the implementation of monitoring measures of the investment fund ("customer") throughout the provision of services. The degree of ML/FT/PF risk attributed by the institution in its AML/CFT/CPF Policy, in relation to that which maintains a direct relationship with the shareholder, will also contribute to such definition.

CUSTOMER RECORDS

Customer Records Update

11. In the provision of subsection III of art. 4 of ICVM 617/19, the persons subject to the securities AML/CFT/CPF rule set forth in the list of art. 3rd who have a direct relationship with the investor must be aware that the AML/CFT/CPF Policy must necessarily address, among other points, the definition of criteria and frequency for updating the records of active customers, in accordance with its art. 11, observing the maximum interval of 5 (five) years.

11.1. The registries of lower-risk customers, according to the classification of the person subject to the securities AML/CFT/CPF rule, must be adjusted in accordance with the frequency determined in the respective AML/CFT/CPF Policy, observing the period established in art. 4, III, of ICVM 617/19, counted from the date of registration or the last registration update.

11.2. The registries of higher risk customers, also according to the classification of the forced person, must be adjusted according to the frequency determined in the same AML/CFT/CPF Policy, observing, however, the maximum renewal period of 24 (twenty-four) months, set forth in ICVM 301/99 (revoked), counted from the date of registration or the last registration update. SMI and SIN understand that it is good practice to take advantage of mutual information, both for the investment profile and for registration. And, in due course, based on a possible change in the 'suitability' standard, under study, they also understand that it is good practice to align the deadline for updating the customer's investment profile with the deadline for updating the customer records, set forth in the Policy of AML/CFT/CPF.

New Minimum Information

11.3. The new minimum information required in the investor's customer records, namely, "CPF number of the spouse or partner" and "CNPJ of the company for which he works", are applied to all natural persons, national or non-resident investors ("NRI") In the case of NRI, compatible information must be collected in the respective jurisdiction of origin.

11.4. Also, specifically in situations of lower risk, both with regard to customer risk and the transmission of orders or even in line with the risk-based approach inserted in the respective AML/CFT/CPF Policy of the participant, it will be possible to admit the execution of trades without having such data available. However, in these cases, a punctual routine must be foreseen and made evident so that this information can be collected diligently at the first opportunity and as a priority.

11.5. Additionally, in cases where the investor has more than one employment relationship, the corporation's information that is more relevant in relation to that investor's income must be considered. It is important to note here that such treatment is of a registry nature, that is, it will not exempt the person subject to the securities AML/CFT/CPF rule from collecting, in situations of greater risk, the supplementary data within the scope of the ongoing due diligence.

11.6. Regarding the minimum information related to the "mother's name", we understand that in situations where it is not possible to obtain it, or even its collection is not applicable, such record may be supplied with the "membership record" and the respective parents' name.

Alternative Customer Records System

11.7. The alternative customer records system, previously set forth under ICVM 301/99, art. 3, paragraph 5, required the prior appraisal by SMI for its implementation, pursuant to CVM Deliberation No. 707/13.

11.8. With the advent of ICVM 617/19, art. 12, the alternative customer records system is available to all participants and its implementation is no longer pending CVM authorization. However, it must be duly set forth in its AML/CFT/CPF Policy, with evidence of its implementation accessible to SMI and SIN, as well as to the self-regulator.

ON ACCOUNT LOCKING

12. In time, with regard to blocking accounts in outdated records, we understand that the point addressed in ICVM 617/19 is related to the non-increase of the customer's exposure to risk. In other words, what is expected is that customers with blocked accounts will operate solely to reduce or even “zero” their position, hypothesis of requests for account closure, or for the sale or redemption of assets.

13. Likewise, in these cases, ICVM 617/19 does not allow voluntary investments, which differs from possible compulsory entries. Therefore, the AML/CFT/CPF duties must necessarily be aligned with the commitments previously assumed by the shareholder of an investment fund. For example, in the situation set forth in the sole paragraph of art. 27 of CVM Instruction 555/14: Investment in closed-end funds intended exclusively for qualified investors may be carried out through a commitment, whereby the investor is obliged to pay in the amount of capital committed as the fund manager makes calls, in accordance with deadlines, decision-making processes and other procedures established in the respective investment commitment.

START AND MAINTENANCE OF BUSINESS RELATIONSHIP

14. Art. 18 of ICVM 617/19 determines that persons subject to the securities AML/CFT/CPF rule responsible for the collection of customer records information must only initiate any business relationship or continue the existing relationship with the customer if due attention to the customer identification process is observed (art. 11 and ff. of ICVM 617/19), which covers the processes of 'Identification of the Beneficial Owner' and 'Know Your Customer'.

15. As can be seen, the standard imposes a duty of conduct on the person subject to the securities AML/CFT/CPF rule and it is incumbent upon it, whenever requested by the CVM or the self-regulator, to demonstrate that it has taken all rational measures within its reach to obtain the complete identification of the customer, including the beneficial owner. But such a situation does not imply the obligation on the part of persons subject to the securities AML/CFT/CPF rule not to initiate, or even to terminate the relationship with the customer, whose decision remains under the authority of the institution itself, in light of its approach and appetite for risk, including the risk to the reputation, if any.

16. Notwithstanding, in such situations, it is essential to effectively apply routines aimed at the reinforced monitoring of transactions or atypical situations of that customer, as well as conducting a more thorough analysis of the possible alerts generated with a view to possible report to COAF, always pursuant to art. 22 of ICVM 617/19.

CONSIDERATIONS ABOUT NON-RESIDENT INVESTORS (NRIs)

17. With regard to the treatment to be given in the governance of the collection and maintenance of information involving the use of the simplified customer records of non-resident investors, including the respective monitoring of atypicalities, we hereby reiterate the terms presented in Circular Letter No. 3/2018-CVM /SMI/SIN[6], as well as by BSM in its recently published Guidance No. 004/2020-DAR-BSM[7], as these points have been previously discussed and agreed with SMI and SIN.

MONITORING AND SELECTION OF TRANSACTIONS, PROPOSED TRANSACTIONS OR ATYPICAL SITUATIONS, ANALYSIS AND REPORT OF ATYPICAL EVENTS TO COAF

18. Furthermore, the monitoring systems aimed at selecting and detecting the red flags foreseen in art. 20 of ICVM 617/19 must be fully consistent with the guidelines established in the AML/CFT Policy.

18.1. And in the event that the person subject to the securities AML/CFT/CPF rule may resort to third parties for the preparation, maintenance, or even updating of the parameters of these systems, such entities must be classified as relevant service providers and taken care of prior to their effective contracting, including their respective adherence to the Law No. 13.709/18 ("**General Data Protection Law**", LGPD).

18.2. According to subsection I of art. 4 of ICVM 617/19, under no circumstances will it be admitted that the routines for analyzing the atypicalities and the respective reporting to COAF, as well as the duty for analyzing the atypicalities, be transferred to these service providers.

19. All transactions, transaction proposals, or situations of customers processed in all persons subject to the securities AML/CFT/CPF rule must be subject to this monitoring, regardless of the amounts involved or the risk classification of any of the variables related to the event itself.

20. Regarding the monitoring of transactions carried out by investment funds, it is our understanding that, as well as the liabilities of customers and investors, the trading of financial assets and securities that make up the equity of these vehicles must also be monitored for AML/CFT/CPF purposes and subsequently analyzed, if applicable.

20.1. Even when an investment fund has most of its transactions carried out in organized market environments, for example, in the case of some equity investment funds, this will not exempt the administrator and manager from maintaining, also in this case, routines for verifying suspicious transactions or situations and subject to reporting to COAF, always within the limits of its attributions.

20.2. Therefore, there is no way to endorse a possible argument that, given the impossibility of determining the counterpart of the transaction, it would not be possible to carry out report, either because (i) the targeting of the counterpart of the transactions is indeed possible in certain circumstances (for example, stocks, options and private credit securities with very low liquidity), either because (ii) we already have report involving transactions in an organized market.

20.3. Structured funds, such as FIIs, FIDICs, and FIPs must deserve special and customized diligence from each of the service providers of these vehicles (as appropriate and in line with the respective RBA methodology) since, due to their characteristics and nature, they present different possibilities of being used for money laundering and terrorism financing, compared to what occurs in retail funds.

20.4. In this regard, we mention the need for monitoring by the fund providers, in particular, the fiduciary administrator and the asset manager, of cases involving private negotiation of structured fund quotas, as well as the proper report of those cases that do not have evidence of financial transactions, or even if they have been carried out outside the market price if there is a reference parameter or the valuation of the share with the purpose of generating a loss or gain for which there is objectively no economic or legal basis - see subsection II of the article 20 of ICVM 617/19.

20.5. It is natural to expect that the shareholder investing in an exclusive fund will participate more actively in the vehicle's investment decision-making process, provided that, in any case, the responsibilities of the administrator and manager in the decisions taken on behalf of the fund are preserved, as well as the governance structures required by legal and regulatory standards.

20.6. From the perspective of AML/CFT/CPF routines, such funds present contours that require particular attention and care on the part of their administrators and managers. This is because, in exclusive funds, the analysis of the profile and personal investment objectives of its exclusive shareholder cannot be left out in the general verification of the regularity of the transactions carried out by the said vehicle, unlike an investment fund with a pulverized base of shareholders, precisely due to the possibility of the shareholder's influence in the fund's management.

20.7. In this sense, we reinforce here the importance of the sole paragraph of art. 18 of ICVM 617/19, which provides that persons subject to the securities AML/CFT/CPF rule must be aware of the nature and purpose of the business relationship maintained with the customer. In the case discussed here, and despite the person effectively responsible for distributing the quota, it is up to the administrator and the manager to implement a specific routine aimed at better understanding this.

20.8. For example, the supervision routines in exclusive funds that allow the identification of transactions "carried out between the same parties or for the benefit of the same parties, in which there are consecutive gains or losses in relation to any of the involved parties" (see paragraph " a", subsection II of article 20 of ICVM 617/19), considering the perspective of the shareholder as the beneficial owner of these transactions.

20.9. Other non-exhaustive examples of points of attention that we can mention are transactions "whose developments include characteristics that may constitute an artifice to deceive the identification of the persons effectively involved and respective beneficial owners" (see paragraph "c", subsection II of article 20 of ICVM 617/ 19), from the perspective of the possible use of the fund as a vehicle for such fraud; or "carried out with the apparent purpose of generating loss or gain for which there is objectively no economic or legal basis" (see subsection "g", subsection II of article 20 of ICVM 617/19).

20.10. The figure of the corporate administrator or manager, who is responsible both for reporting suspicious transactions and for maintaining the AML/CFT/CPF structure, should not be confused with that of individual operators, traders, analysts, and managers who work on behalf of the institution, and that they may eventually fail to comply with the rules applicable to their activity, even in total disregard and ignorance of the companies that hire them and their rules and policies.

20.11. The administrators and resource managers are already required to maintain an adequate structure to ensure the verification of the permanent fulfillment of the duties imposed on them arising from the activities performed, with the respective investigation of any illegal acts and, at the limit, the punishment applicable to those involved.

20.12. Thus, the report of atypical transactions or situations carried out by a certain market participant, even when involving their employees, does not necessarily represent evidence of the communicator's practice of irregularities, on the contrary, it only reinforces and corroborates the existence and maintenance of rules, procedures and robust internal controls, effective and adequate to the provisions of the Laundering Law, and which will even be considered, in the event of a possible CVM inspection, as elements that remove the administrative responsibility of the legal entity.

20.13. On the other hand, with regard to compliance with the provisions of articles 27 and 28 of ICVM 617/19, we would like to recall that the fund's other service providers, in addition to those that have a direct relationship with the shareholder, are also required to comply with the determinations imposed by the UNSC, **if they hold information that allows them to execute the unavailability order**. In situations like these, such service providers must interact with the fund distributor through the mechanisms set forth in paragraph 1 of art. 17 of ICVM 617/19.

21. Without prejudice to the guidelines issued by the self-regulatory entities, which were previously agreed with SMI and SIN, the deadlines for the selection of the atypical event, as well as the completion of the respective analysis, must be part of the scope of the AML/CFT/CPF Policy of the compelled institution. Subsequently, the respective performance of these routines must be measured and presented in the Internal Risk Assessment, at which time such indicators will demonstrate whether or not they were effective for the purposes of mitigating the risks dealt with herein.

22. The report of an atypical transactions or situation must be sent to COAF within **a period of up to 24 (twenty-four hours)** counting from the moment of completion of the analysis defined by the atypicality report to the Financial Intelligence Unit. The minimum content expected in this report must follow the provisions of art. 22 of ICVM 617/19, and it is hereby reiterated that the mere proposal of transactions that may constitute serious evidence of ML/FT/PF may be the object of this report.

23. **Sending the report of a transaction or atypical situation to COAF does not exempt the person subject to the securities AML/CFT/CPF rule from also evaluating, when applicable, whether the event must also be communicated to CVM pursuant to subsection IV of art. 32 of ICVM 505/11.**

24. According to art. 23 of ICVM 617/19, persons subject to the securities AML/CFT/CPF rule must communicate to CVM, if applicable, the non-occurrence, in the previous calendar year, of situations, transactions or proposed transactions that may be communicated. This routine must be implemented through the mechanisms established in the agreement signed between CVM and COAF. For the purposes of transition from the former AML/CFT/CPF standard to ICVM 617/19, the possible report of this type of reporting for the year 2020 may be forwarded until 04/30/2021 - see Annex II of this Circular Letter.

25. Specifically in relation to the provisions of Law 13,810/19, Decree 9,825/19 and articles 27 and 28 of ICVM 617/19, the latter provisions in force since the publication of the aforementioned Instruction, and already dealt with in paragraph 5 of this Circular Letter, we emphasize that the monitoring of the respective lists of the United Nations Security Council ("UNSC") aims to identify the warning signs set forth in items "a" and "b" of subsection III of art. 20 of the Instruction.

25.1. Persons subject to the securities AML/CFT/CPF rule must be aware that the faithful compliance with the aforementioned provisions apply to business relationships maintained by people included in the list of art. 3 of ICVM 617/19 and those that may be initiated later with any customers reached by the unavailability determinations. In this regard, we also reiterate here the note described in paragraph 20.13 of this Circular Letter.

25.2. **Compliance with the routines dealt with here must be immediate, and the concept of the Risk-Based Approach does not fit. Once the events highlighted registered in paragraph 25 of this Circular Letter are detected, the unavailability routines must be promptly carried out without the need for prior analysis, and regardless of the amounts involved.**

25.3. According to subsection II of art. 27 of ICVM 617/19, and soon after the unavailability of the assets becomes effective. COAF must be reported within the

framework of sub-paragraphs "a" or "b" of subsection III of art. 20 of the Instruction, without prejudice to simultaneous report to CVM via the address lists@cvm.gov.br, as well as to the Ministry of Justice and Public Security ("Ministério da Justiça e Segurança Pública", MJSP) at the e-mail csnu@mj.gov.br.

25.4. The unavailability foreseen in articles 27 and 28 of ICVM 617/19 refer to the prohibition of transferring, converting, making available assets or disposing of them, directly or indirectly, as set forth in subsection II of art. 2, and its administration, custody or guard must follow the provisions of paragraph 2 of art. 31, all of Law No. 13.810/19.

ON THE CUSTOMER RECORDS OF TRANSACTIONS AND MAINTENANCE OF FILES SET FORTH IN CHAPTER VI OF ICVM 617/19

26. The measures to be implemented by the persons subject to the securities AML/CFT/CPF rule to faithfully comply with Chapter VI of ICVM 617/19, pursuant to arts. 25 and 26 of the Instruction, must also observe the scope of ICVM 505/11, as applicable, especially with regard to paragraph 32 of this Circular Letter.

SPECIFIC CONSIDERATIONS ABOUT:

- **SECURITIES CONSULTANTS**
- **CREDIT RISK CLASSIFICATION AGENCIES**
- **SECURITIES BOOKKEEPERS**

27. Next, specific considerations will be presented about some peculiarities involving some of the persons subject to the securities AML/CFT/CPF rule dealt with in art. 3 of ICVM 617/19, starting with securities consultants.

28. As established in ICVM 592/17, the exercise of the activity of securities consulting comprises the provision of guidance, recommendation, and counseling services in a professional, independent, and individualized manner, on investments in the securities market, whose adoption and implementation are exclusive to the customer. Therefore, the investor must be considered as a customer of the consultant, based on the direct business relationship for the provision of services maintained with him. Despite not being responsible for the investor's customer records with the intermediate or distributor, the consultant is subject to the suitability rules, which determine obtaining information that allows making recommendations for investment products suited to the investor's risk profile.

29. It can be seen then that, in his performance, the securities consultant has access to information that justifies the monitoring of his customers in relation to the AML/CFT/CPF. As the implementation of the investment recommendations provided by the consultant is exclusive to the customer and the investor will not always decide to share its transactions with the consultant, the level of monitoring of these customers in an RBA context will involve less due diligence compared to customers that provide data from your investment portfolio to the advisor.

30. We also highlight credit risk rating agencies, concerning the issuers that contract them, as well as the securities companies, about the assignors or originators from whom they acquire securities for issuing the certificates. Such service providers must undertake and directly apply the rules, procedures, and internal controls on them, as well as the

respectively applicable checks to identify atypicalities. For example, business proposals, even if not carried out, for which "lack of economic or legal basis" (article 20, II, "g"); or "that may constitute an artifice to deceive the identification of the personnel involved and their respective beneficial owners" (article 20, II, c), seen here the classified or structured issue, as the case may be, as to how the identification of such beneficial owners is hidden or made difficult.

31. Without prejudice to the obligations contained in art. 21 of ICVM 543/13 and arts. 27 and 28 of ICVM 617/19, as well as specific routines involving the provision of services in the investment fund market, it will be up to the securities bookkeepers to define in their AML/CFT/CPF Policies the respective risk-based approach, and also what information from investors they will be requested, when applicable, to the managing entities of organized markets, to the operators of financial market infrastructure and intermediaries, for the necessary governance of the risks dealt with here.

31.1. To this end, and notwithstanding the provisions of art. 15 of the same ICVM 543/13, the registrars must, within the scope of the routines set forth in paragraph 1 of art. 17 of ICVM 617/19, inform the managing entities of organized markets, the operators of financial market infrastructure, and intermediaries, which additional information will be required for managing ML/FT/PF risks.

ON THE USE OF NEW TECHNOLOGIES

32. According to subsection "a", subsection I of art. 7 of ICVM 617/19, forced institutions must implement specific rules, procedures, and internal controls for the treatment of new technologies, thus aiming at mitigating ML/FT/PF risks.

33. For this purpose, the respective AML/CFT/CPF Policy must consider, when applicable, the premises of the Information Security Policy, foreseen in art. 35-D et seq. of ICVM 505/11, covering, among others, the treatment and control of customer data and cybersecurity.

34. And among the data control of these investors are the customer records data and other information that allow the identification of customers.

35. The AML/CFT/CPF Policy, aligned with the Information Security Policy, as defined in art. 35-D of ICVM 505/11, should provide, at a minimum, measures to be adopted for the treatment of cyber incidents and data and systems recovery. Thus, it is essential to understand that the work aimed at mitigating ML/FT/PF risks also observes the risks related to possible cyberattacks.

NOTES ON THE DIRECTOR RESPONSIBLE FOR ICVM 617/19

36. The Director Responsible for ICVM 617/19, formerly Director Responsible for ICVM 301/99, has new attributions now, in addition to those established in the former AML/CFT/CPF standard. Thus, we must highlight the provisions of art. 8 of ICVM 617/19, as well as the duties aimed at the implementation and maintenance of the AML/CFT/CPF Policy, which must be compatible with the nature, size, complexity, structure, risk profile, and business model of the institution, in order to ensure the effective management of the identified ML/FT/PF risks.

37. Moreover, we also emphasize the requirements foreseen in art. 6 of the Instruction, which determines the AML/CFT/CPF Director to prepare a report on the internal ML/FT/PF risk assessment, to be forwarded to the senior management bodies specified in the AML/CFT/CPF policy, by the last business day of April. The scope of said report must meet all the points that are required in Section II of Chapter II of ICVM 617/19.

CONCLUSION

38. For all of this, what is expected is that institutions act in a healthy and diligent manner, to mitigate the inherent risks to which the securities market is subject so that it can be used for ML/FT/PF, as set forth in ICVM 617 /19, without failing to serve the best interest of the investor, in what is prescribed, for example, in art. 30 of ICVM 505/11.

Sincerely

FRANCISCO JOSÉ BASTOS SANTOS

Director of Market and Intermediary Relations

OVÍDIO ROVELLA

Substitute Director of Institutional Investor Relations

[1]In Annex I of this Circular Letter, considerations will be presented on the theme of the proliferation of weapons in mass destruction within the context of Law 13,810/19 and the latest FATF guidelines.
[2] http://www.cvm.gov.br/legislacao/notas-explicativas/nota617.html
[3] https://www.bcb.gov.br/estabilidadefinanceira/exibenormativo?tipo=Resolução %20CMN&numero=4859
[4] http://www.cvm.gov.br/menu/afastamentos/julgamentos.html
[5] http://www.cvm.gov.br/menu/afastamentos/index.html
[6] http://www.cvm.gov.br/legislacao/oficios-circulares/smi-sin/oc-smi-sin-0318.html
[7] https://www.bsmsupervisao.com.br/assets/file/noticias/comunicado-externo-BSM-004-2020-ABR-e-NRI.pdf

ANNEX I
ON THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

1. One of the results of the FATF Plenary held in October 2020 was the deliberation of some adjustments in the Recommendations and respective Interpretative Notes of that body, in order to require that the countries and the respective obligated subjects include in their ML/FT/PF risk matrix the issue of the proliferation of weapons of mass destruction, pursuant to Recommendation 7, that is, everyone should also identify, analyze, understand and mitigate such risks. See the following link: https://www.fatf-gafi.org/publications/financingofproliferation/documents/statement-proliferation-financing-2020.html .

2. In this wake, it is pertinent to transcribe the considerations that COAF made on the subject discussed here at its website on the world wide web (our emphasis). See the following link: https://www.gov.br/coaf/pt-br/assuntos/o-sistema-deprevencao-a-lavagem-de-dinheiro/o-que-e-o-crime-de-lavagem-de-dinheiro-ld .

What are money laundering and terrorism financing?

The crime of money laundering is characterized by a set of business or financial transaction that seek to temporarily or permanently incorporate resources, goods and values of illicit origin into the economy of each country and which are developed through a dynamic process that theoretically involves three independent phases that often occur simultaneously.

In order to disguise illicit profits without compromising those involved, money laundering is carried out through a dynamic process that requires: first, the distancing of funds from their origin, avoiding their direct association with crime; second, the disguising of its various moves to make it difficult to track these resources; and third, making the money available again to criminals after it has been sufficiently moved in the wash cycle and can be considered "clean".

The financing of terrorism

The fight against the financing of terrorism is closely linked with the fight against money laundering. The massive terrorist attacks of the last decade have led nations to intensify their mutual cooperation against terrorism and its financing.

Organizations of the United Nations System (UN), after the attacks of September 11, 2001, mobilized to intensify the fight against terrorism. Thus, on September 28 of that same year, the Security Council adopted Resolution 1373, to prevent the financing of terrorism, criminalize the collection of funds for this purpose and immediately freeze the financial assets of terrorists.

Additionally, the Security Council also adopted measures to ***counter the proliferation of weapons of mass destruction financing, embodied in Resolution 1540. Thus, the Security Council obliged States to discontinue any support to non-state agents for development, acquisition, production, possession, transport, transfer or use of nuclear, biological and chemical weapons and their means of delivery.*** *In 2006, following the international effort to contain terrorism, the General Assembly unanimously adopted the UN Global Counter-Terrorism Strategy. This strategy defines a series of specific measures to counter terrorism in all its aspects, at the national, regional and international levels.*

Likewise, the Financial Action Task Force (FATF), after the 2001 attacks, expanded its mandate to be able to deal also with the issue of financing terrorist acts and organizations, as well as issues related the proliferation of weapons of destruction in pasta. Thus, specific recommendations were created to counter the financing of terrorism. Currently, these recommendations are part of the 40 FATF Recommendations and are presented in the "C - Financing of Terrorism and Proliferation Financing" section of that publication.

The effort to counter the financing of terrorism allowed the blocking of material and financial resources of terrorists. *Transnational criminal organizations were dismantled as a result of the development and use of agile and safe mechanisms to identify and strangle their sources of funding. International cooperation and the exchange of information between the Financial Intelligence Units (FIU) of several countries were expanded. At this point, the important role of the Egmont Group, which covers FIUs from more than 160 countries and works to promote the exchange of information, training, and exchange of experiences between these units, is highlighted.*

Brazil repudiates terrorism, as a constitutional principle, and is convinced that terrorism, in all its forms, is unacceptable and can never be justified. Thus, Brazil is a signatory of the International Convention for the Suppression of the Financing of Terrorism, promulgated by Decree No. 5,640, of December 26, 2005.

The Council for Financial Activities Control ("Conselho de Controle de Atividades Financeiras", COAF) coordinates Brazilian participation in several multi-governmental organizations for the prevention and Countering the Financing of Terrorism. Thus, COAF seeks to internalize the discussions and guidelines on how to implement the recommendations of international organizations, to adapt to the best practices adopted to effectively fight financial crimes.

In addition, COAF is responsible for disciplining, applying administrative penalties, receiving, examining, and identifying occurrences of suspected illegal activities, in addition to informing the competent authorities for the establishment of the appropriate procedures when the Council concludes for the existence or well-founded evidence of crimes of laundering money and terrorism financing. Because of this, COAF published Resolution No. 31, of June 7, 2019, which establishes procedures to be observed by individuals and legal entities regulated by COAF on transaction or proposed transactions related to terrorism or its financing.

Brazil took an important step with the enactment of Law No. 13,260, of March 16, 2016, which "typifies terrorism and its financing". ***More recently, we highlight the joint action with other bodies for the approval of Law No. 13,810, of March 8, 2019, and its subsequent regulation by the Executive Branch (Decree No. 9,825, of June 5, 2019), which strengthened the AML/CFT/CPF system by providing for compliance with sanctions imposed by United Nations Security Council resolutions, including the unavailability of assets of natural and legal persons and entities, and the national designation of persons investigated or accused of terrorism, of their financing or related acts.***

3. In view of the foregoing, and considering that, pursuant to Law 13.810/19, the proliferation of weapons of mass destruction is already included in the orbit of obligations of the respective persons subject to the securities AML/CFT/CPF rule, including the monitoring of the lists of the United Nations Security Council (UNSC) and possible freezing of customer assets (see paragraphs 5, 20.13, 25 and 25.1 to 25.4 of this Circular Letter), it is important that this issue is explained, whenever applicable, in the scope of the AML/CFT/CPF Policy, rules, procedures and controls internal, as well as in the appropriate periodic training.

ANNEX II
NEGATIVE REPORT

1. Negative report is still required, where applicable. Thus, in line with art. 23 of ICVM 617/19, Participants must communicate to CVM, if applicable, the non-occurrence, in the previous calendar year, of situations, transactions or proposed transactions that may be communicated.

2. And this report must be carried out annually, until the last business day of April, through the mechanisms established in the agreement signed between CVM and COAF. Therefore, we emphasize that the negative report must be effectively sent to the Financial Intelligence Unit (FIU) through the SISCOAF system, which is already available for such report, and not to CVM.

3. For those who still do not have access to the system or have questions about access, we advise you to consult the manual available at: http://www.fazenda.gov.br/orgaos/coaf/arquivos/sistema/manual-cadastro.pdf .

4. There are still some additional clarifications regarding the aforementioned negative reports, and the first one refers to market participants who, due to the very dynamics of the regulation to which they are subject, in one way or another inform the CVM whether or not they carry out the activity.

5. This is the case of portfolio managers and securities advisers, who, pursuant to the regulations that regulate their activities, must submit, by March 30 of each year, a reference form (RF) in which, among other information, they confirm if the activity was carried out in the reference period of the document.

6. For these participants, there is no justification for demanding any negative report from the FIU, as there are no transactions in the capital market on which they could express their opinion. Thus, portfolio managers and securities consultants who indicate, through the RF, that they are not exercising the activity, are also exempt from submitting the negative report foreseen in article 23 of CVM Instruction 617/19.

7. A situation similar to this is that of portfolio managers and securities advisers who are natural persons who act as responsible for these activities in a portfolio manager or corporate consultancy, as the case may be.

8. Considering that the director responsible for the portfolio management or securities consulting activity of legal entities is prohibited from accumulating any other activities, inside or outside the institution for which he is responsible, it is possible to assume that this director acts in the portfolio management function or consultancy exclusively through the company for which he/she responds, which is why they are not obliged to submit, in its capacity as a natural person accredited with the CVM, the aforementioned negative report, although the legal entity for which it responds is obliged to make such report, by clear.

9. In the same way, the market participant who is in a customer records situation that indicates the non-exercise of the activity in any capacity is not required to send the report, for example, in the customer records situations of "suspension", "in extrajudicial liquidation" or "paralyzed".

10. It is also worth mentioning that the person subject to the securities AML/CFT/CPF rule, under the terms of article 23 of CVM Instruction 617/19, must send a single negative report, regardless of the number of customer records or authorizations they have in this Commission.

11. Finally, it should be emphasized that any reporting to SISCOAF, whether suspicious report or negative report, should not be made in the name of an investment fund, but in the name of the respective service provider, that is, the administrator, the manager, the custodian, among others.