



## **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 - Tel.: +55 (21) 3554-8686  
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**Translation Date: May 13th, 2022**



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CVM RESOLUTION No. 13, OF OCTOBER 18, 2020

### CVM RESOLUTION NO. 13, OF OCTOBER 18TH, 2020 WITH THE AMENDMENTS INTRODUCED BY CVM RESOLUTION NO. 64/22

Provides for the registration, operations and  
disclosure of information of nonresident investors  
in Brazil.

THE **CHAIRMAN OF THE SECURITIES AND EXCHANGE COMMISSION OF BRAZIL - CVM** makes it publicly known that the Collegiate, in a meeting held on November 17, 2020, based on the provisions of art. 8, I, of Law 6,385, of December 7, 1976, and in art. 2 of the Annex I CVM Resolution 4,373, of September 29, 2014, APPROVED the following Resolution:

#### CHAPTER I - SCOPE AND PURPOSE

Art. 1. This Resolution provides for the registration, operations and disclosure of information of non-resident investors in Brazil.

#### CHAPTER II - GENERAL ASPECTS

##### Section I – General Rules

Art. 2. Prior to operations in Brazilian financial and capital markets, non-residents are subjected to registration with the Securities and Exchange Commission of Brazil (CVM) through their designated representative and must present the information defined in Annex A.

Single paragraph. The non-resident natural person investor is exempt from obtaining the registration referred to in the caput, and his representative must send, prior to the start of the investor's operations in the country, the information requested in an electronic system made available by the CVM or by the market management entity organization that has formalized an agreement or similar instrument with the CVM for this purpose

- ***Sole paragraph included by CVM Resolution No. 64, of February 7, 2022***

Art. 3 The individual or collective investor, legal entity, fund or other investment vehicle, residing, headquartered or domiciled abroad, may apply for registration.

- ***Art. 3 with wording provided by CVM Resolution No. 64, of February 7, 2022***

Art. 4. Non-resident investors can register as:



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I – Proprietary account holder;

II – Omnibus account holder; or

III – Participant in an omnibus account

Paragraph 1. The proprietary account holder may operate solely on their own behalf.

Paragraph 2. The omnibus account holder may operate on behalf of other non-resident investors, admitted as participants of an omnibus account.

Art. 5. The investor may operate with their own resources in an omnibus account that they hold, as long as they are also registered as a participant.

Art. 6. It is only permitted to be a holder of an omnibus account the investor whose qualifications fall within what is pursuant to items I to XII of paragraph 1 of Article 1 of Annex A.

### Section II – Registration of a Non-resident Investor

Art. 7. The registration of a non-resident investor shall be granted automatically.

Art. 8. The non-resident investor registration request must be sent electronically to the Office of Institutional Investors Supervision – SIN with the information contained in Annex A.

Sole paragraph. SIN may, at any time, request the correction or the changing of the information described in Annex A.

Art. 9. SIN shall suspend the registration of a non-resident investor whenever it is noted that the investor does not fulfill any of the requisites established in the specific regulation issued by CMN for the initiation of the investor's operations.

### Section III - Representation

Art. 10. The representative of a non-resident investor must be a financial institution or institution authorized to operate by the Central Bank of Brazil.

Single paragraph. The representative of the non-resident investor may be an intermediary institution through which the investor operates in the Brazilian securities market.

• ***Sole paragraph included by CVM Resolution No. 64, of February 7, 2022.***

Art. 11. The representative of a non-resident investor in the country must act on his representation duties described in this Instruction in good faith, with diligence and loyalty.



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Art. 12. It is the duty of the representative to:

I – Provide all the necessary information for the registration of the non-resident investor with CVM;

II – Keep up-dated all the non-resident investor information described in Annex A;

III – Present to CVM, whenever requested, the following documents:

a) Representation Agreement; and

b) Custody Agreement for the provision of custody services, between the non-resident investor and the legal person authorized by CVM to provide said service;

IV – Provide to CVM all requested information regarding the non-resident investors he/she represents; and

V – Immediately communicate to SIN the revoking of the Representation Agreement.

Art. 13. The information provided regarding the non-resident investor must be true, complete and consistent.

### CHAPTER III – PERIODIC INFORMATION

Art. 14. The representative of the non-resident investor registered with the CVM must send, through the electronic system available on the CVM page on the World Wide Web, the following information:

• **Caput with wording given by CVM Resolution No. 64, of February 7, 2022.**

I – monthly report, indicating the movement and consolidated applications of the resources belonging to participants of omnibus accounts and to proprietary account holders represented, in accordance with what is provided in Annex B, by 10 (ten) business days after the end of each month; and

II – biannual report, indicating the movement and consolidated applications of the resources belonging to participants of omnibus and proprietary account holders represented, in accordance with what is provided in Annex C, by 15 (fifteen) business days after the end of each semester.

Paragraph 1. The central securities depositories, custodians, organized market administrators (exchanges and OTC), registration entities, settlement systems, registrars and investment fund trustees



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must provide to the representative all necessary information for the elaboration of the periodic reports described in this article related to securities and financial assets held by the non-resident investor represented.

Paragraph 2. The provisions of the previous paragraph do not impair the representative's responsibility for the provision of the information described in article 14, within the established deadlines.

### **CHAPTER IV – NON-RESIDENT INVESTOR OPERATIONS**

#### **Section I – General Rules**

Art. 15. The non-resident investor may hold and/or be participant in one or more accounts.

Paragraph 1. In case the non-resident investor chooses to maintain their financial assets and securities in separate custody accounts or with more than one custodian, the agreement for provision of custody services must contain a clause describing the operational procedures for transfers between the referred accounts, including regarding the information that should be provided to the account holder and their representatives.

Paragraph 2. The non-resident investor individual person is not subject to the requirement of agreement for provision of custody services, pursuant to paragraph 1.

Art. 16. The termination or cancellation of a custody agreement without indication of a new custodian by the non-resident investor must be immediately communicated by the custodian to SIN.

Art. 17. The registration number assigned by CVM (CVM code) must be included in all operations performed in the name of each investor, participant in an omnibus account or holder of a proprietary account, in order to allow identification of the final beneficiary in the referred operations and to ensure the segregation between the orders of the account holder and of each participant.

Art. 18. In case the non-resident investor acts through a foreign intermediary, the custody agreement may be signed by said foreign intermediary on behalf of the non-resident investor.

Sole paragraph. In case the custody agreement is signed in the terms of the head provision of this article, the custodian must ensure that the non-resident investor is a client of the foreign intermediary, in which they must be duly registered as determined by the applicable legislation in their country of origin.



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### **Section II - Operations Outside of the Organized Market**

Art. 19. The acquisition or disposition of securities outside of the organized market is permitted only in the following situations:

- I – Subscription;
- II – Bonus;
- III – Conversion of debentures or other securities into shares;
- IV – Redemption or reimbursement, in cases approved by law;
- V – Dividends paid in securities;
- VI – Subscription, amortization or redemption of investment funds' units regulated by CVM;
- VII – Cession or transfer of open-ended mutual investment fund units in the cases described by specific regulation issued by CVM;
- VIII – Free or onerous transfer of earnings due and not yet paid to the non-resident investor with the purpose of closing of a custody account;
- IX – Free transfer of subscription receipts, as transferor or transferee;
- X – Judicial transaction, judicial, arbitral or administrative judgment;
- XI – Sale of securities which are no longer authorized to be traded in an organized market, due to cancellation or suspension;
- XII – Sale of shares due to actions taken by right or by obligations stipulated in the shareholders' agreement, signed and archived at CVM for over a period of six months;
- XIII – Public offering of securities distribution;
- XIV – Public offering for acquisition of shares (OPA), in the cases where CVM authorizes that offering must adopt other proceedings than auctions in organized markets, under the terms of specific regulation; and
- XV – Put option for remaining shareholders in OPA.

Paragraph 1. Given previous justified request, CVM may authorize the use of external resources which have entered the country, under the terms of the specific regulation issued by CMN, in operations



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of securities acquisition or sale outside organized markets in cases not described in the head provision of this article, taking into account all other specific rules and guidelines related to the subject.

Paragraph 2. In the case described in item I of the head provision, subscription is permitted regardless of having resulted from the exercise of preemptive rights as set forth in Article 171 of Law no 6.404, of December 15th, 1976.

Paragraph 3. Except in case of court order, the institution authorized to provide bookkeeping services must only register the sale of securities registered in the name of the non-resident investor with the acquiescence of their representative responsible for assessment if the intended transaction is in conformity with the rules of this Resolution.

### **Section III – Transfers between Non-Resident Investors**

Art. 20. Transfer of positions and securities among non-resident investor are permitted provided that they result from:

I – merger, divestiture, incorporation, merger of shares and succession causa mortis; and

II – other corporate operations that do not result in a change of the final assets holders and of the quantity of financial assets and securities belonging, directly or indirectly, to each investor involved in the operation.

Sole paragraph. CVM may authorize, upon justified request, the transfer of positions/securities among non-resident investors in situations not described in the head provision, as long as other specific regulation on this matter are respected.

Art. 21. The transfers aforementioned in Article 20 must be informed to CVM by the investor's representative whose position/securities are being transferred, with the supporting documentation attached to the monthly report.

### **CHAPTER V – BOOKKEEPING AND ARCHIVE MAINTENANCE**

Art. 22. The representative must maintain, for a minimum period of 5 (five) years, or for a longer period, as expressly determined by CVM, all documents and information specified by this Resolution.

Paragraph 1. Digitalized images are allowed instead of original documents, provided that the process is carried out in accordance with the law that provides for the elaboration and filing of public



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and private documents in electronic media archives, and in accordance with the decree that establishes the digitalization requirements of such documents.

Paragraph 2. The original document can be discarded after its digitalization, unless it presents material damage that impairs its readability.

### CHAPTER VI – FINAL PROVISIONS

Art. 23. The representative is subject to daily fines pursuant to the specific rules regarding the coercive fines in the event of non-compliance with the deadlines established in this Resolution for providing periodic information, without prejudice to the provisions of art. 11 of Law No. 6,385 of 1976.

Art. 24. It is considered a serious infraction, for the purposes of the provisions of art. 11, §3, of Law No. 6,385, of December 7, 1976, failure to comply with the duties established in arts. 2; 13; 14; 16; 17; 19, paragraph 1; 20, single paragraph; and 21 of this Resolution.

Art. 25. CVM communications provided for in this Resolution will be valid if made by electronic means or sent to the representative's address, included in his registration.

• **Art. 25 with wording provided by CVM Resolution No. 64, of February 7, 2022..**

Art. 26. CVM Instruction No. 560, of March 27th, 2015, CVM Instruction No. 574 of December 17th, 2015, and article 23 of CVM Instruction No. 609 of June 25th, 2019 are hereby revoked.

Art. 27. This Resolution takes effect on December 1st, 2020.

*Electronically signed by*

**MARCELO BARBOSA**

**CHAIRMAN**



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### ANNEX A TO RESOLUTION CVM NO. 13, OF NOVEMBER 18TH, 2020

*Information for Submitting Non-resident Investor Application for Registration, pursuant to art. 2.*

Art 1. For the purposes of registration of a non-resident investor, the representative must send to CVM the following information through the electronic system available in CVM's web page on the world wide web:

I – Name or corporate name;

II – REVOKED

- ***Item II revoked by CVM Resolution No. 64, of February 7, 2022.***

III – REVOKED

- ***Item III revoked by CVM Resolution No. 64, of February 7, 2022.***

IV – Complete address;

V – Email

VI – Country of tax domicile;

VII – Identify if the non-resident investor is:

- a) Proprietary account holder;
- b) Omnibus account holder; or
- c) Participant in an omnibus account, specifying that account;

VIII – Qualification;

IX – Tax representative;

X – Custodian; and

XI – Contact information of the person indicated by the representative in relation to the request, informing:

- a) Name;
- b) Telephone; and
- c) Email.



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Paragraph 1. The qualification referred in item VIII of the head provision must be one of the following:

I – Central banks;

II – Governments or governmental entities;

III – Sovereign fund or Investment Company controlled by sovereign fund;

IV – Multilateral organisms;

V – Commercial banks, investment banks, savings and loan associations, and global custodians and similar institutions, regulated and inspected by competent governmental authority;

VI – Insurance companies regulated and inspected by competent governmental authority;

VII – Institution or entity that has as objectives the distribution of issued securities or the intermediation of securities trading, acting on their own behalf, registered and regulated by an entity recognized by CVM;

VIII – Pension entity regulated and inspected by competent governmental authority;

IX – Non-profit entities provided they are regulated and inspected by the competent governmental authority;

X – Any other entity whose objective is the investment of financial resources in the financial and capital markets, in which only persons and legal entities resident and domiciled abroad can participate, provided that:

a) The entity is registered and regulated by a government entity recognized by CVM; or

b) The portfolio management is performed in a discretionary way by a professional portfolio manager, registered and regulated by a government entity recognized by CVM;

XI– Other funds and collective investment entities;

XII – Entities organized as trusts or other fiduciary vehicles;

XIII – companies incorporated with bearer bonds; or

• **Item XIII with wording provided by CVM Resolution No. 64, of February 7, 2022;**

XIV – legal entities incorporated abroad not included in the previous categories.



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• ***Item XIV with wording given by CVM Resolution No. 64, of February 7, 2022***

XV – REVOGADO

***Inciso XV revogado pela Resolução CVM nº 64, de 7 de fevereiro de 2022.***

Paragraph 2. With respect to the dispositions of items VII and X of paragraph 1, CVM recognizes entities that are compliant with at least one of the following requirements:

I – is located, directly or indirectly, in a jurisdiction that is not classified, by the Financial Action Task Force - FATF or by other international organizations to whose rules or recommendations the CVM is bound, as not cooperating, high risk, or having strategic deficiencies in the fight and prevention of money laundering and the financing of terrorism or the financing of the proliferation of weapons of mass destruction; and

• ***Item I with wording given by CVM Resolution No. 64, of February 7, 2022***

II – The entity submits to the supervision of a securities regulator that has signed with CVM na agreement for mutual cooperation that allows investors' financial information exchange, or is a signatory of the Multilateral Memorandum of Understanding of the International Organization of Securities Commissions (IOSCO).

Art 2. The representative must keep archived the non-resident investor's declaration certifying that the information provided in the context of this annex is truthful and that the representative fully accepts the responsibility resulting from it, under penalty of law.

Sole paragraph. The declaration must contain:

I – The signature of the non-resident investor, or that of their representative;

II – The signature of the representative; and

III – Date.



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### ANNEX B TO RESOLUTION CVM 13, OF NOVEMBER 18TH, 2020

#### *Content of the Monthly Report, pursuant to art. 14, item I.*

Art 1. – The monthly report must provide the following information:

I – Information on the participant of omnibus account or proprietary account holder, indicating:

- a) Name and code; and
- b) Document's reference date;

II – Movements of financial resources, indicating:

- a) The amount of financial resources entering and leaving the country within the period; and
- b) The movements of financial resources within the period, segregated by:

- 1. Financial resources transfer between investment modalities;
- 2. Financial resources received from other representative; and
- 3. Financial resources transferred to other representative;

III – Financial resources invested, informing:

a) Type of investment, classifying in one of the following categories:

- 1. Shares and equity capital;
- 2. Shares and other securities given in loans;
- 3. Debt instruments— fixed income—government bonds;
- 4. Debt instruments— fixed income— state or municipal bonds;
- 5. Debt instruments—fixed income—issued by a financial institution or by an institution authorized by the Central Bank of Brazil;
- 6. Debt instruments— fixed income— issued by non-financial company;
- 7. Investment fund units—shares portfolio;
- 8. Investment fund units—fixed income instruments portfolio;
- 9. Investment fund units—real estate;
- 10. Investment fund units—private equity;



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11. Investment fund units—credit rights.
12. Investment fund units—other portfolios;
13. Gold;
14. Availabilities;
15. Interest rate futures contracts;
16. Foreign exchange or exchange coupon futures contracts;
17. Foreign exchange swap contract with periodic adjustment;
18. Shares index futures contracts;
19. Other future contracts;
20. Interest rate options;
21. Foreign exchange options;
22. Shares index options;
23. Other options;
24. Other derivative instruments;
25. Other investments;
26. Collectability of shares and other securities received in loans;
27. Other collectabilities;
28. Unreceived share sales;
29. Unreceived rights related to shares; and
30. Other values yet to receive;

b) Market value (fair value Level 1) on the last business day of the reference month, or, in the absence of this, the acquisition cost; and

c) Notional net value on the last business day of the reference month for the investments corresponding to items 15 to 24 of Article 1, III, (a), of this Annex.

IV – Net worth.



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Paragraph 1. The investments measured at market value (fair value Level 1) must be informed segregated from those measured at acquisition cost.

Paragraph 2. The following assets should be classified in the category “shares and equity capital”:

I – shares, securities certificates or deposit receipts; and

II – other investments of variable income.



## **SECURITIES AND EXCHANGE COMMISSION OF BRAZIL, CVM**

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CVM RESOLUTION No. 13, OF OCTOBER 18, 2020

### **ANNEX C TO RESOLUTION CVM NO. 13, OF NOVEMBER 18TH, 2020**

#### *Content of Bi-annual Report*

Art. 1. The bi-annual report must provide the following information:

I – Information on the participant of omnibus account or proprietary account holder, indicating:

- a) Name and code; and
- b) Document reference date;

II – Movements of financial resources, indicating:

- a) The amount financial resources entering and leaving the country within the period; and
- b) The movements of financial resources within the period, segregated by:

1. Financial resources transfers between investment modalities;

2. Financial resources received from other representative and financial resources transferred to other representative;

III – Financial resources invested, informing the securities or financial assets invested:

- a) Type;
- b) Class;
- c) Code;
- d) Investment starting date; and

e) Market value (fair value Level 1) on the last business day of the reference month, or, in the absence of this, the acquisition cost; and

IV – Net worth.