



# VELLOZA, GIROTTTO E LINDENBOJM

*Advogados Associados*

## VGL NEWS

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### IOF - Changes in the Regulatory Provisions

Decree no. 6,613, of October 22nd, 2008, amended Decree no. 6,306, of December 14th, 2007 in relation to certain IOF triggering events involving exchange ("**IOF/Exchange**") and securities ("**IOF/Securities**") transactions, therefore altering and revoking some of Decree 6,306 mandates.

#### **IOF/Exchange (Article 15, Paragraph 1st):**

- **Financial and Capital markets Investments via National Monetary Council ("CMN"):** It was given a new wording to item X, which consolidated the rules for investments performed by foreign investors pursuant to CMN rules and regulations in the Brazilian financial and capital markets. The new item X establishes an **IOF/Exchange zero rate** to all exchange transactions (inflow and outflow and even if performed through simultaneous exchange transactions) performed to invest into the Brazilian financial and capital markets. For that reason, items IX and XI have been revoked (as well as the former 1.5. rate) since these situations are now covered under the above mentioned IOF zero rate as established by the new wording of item X.

In the same context, item XVII (in reference to simultaneous exchange transactions) was changed to eliminate the previous exception applicable to simultaneous exchange transactions performed and required under Resolution 3,547/08 to invest in the Brazilian financial and capital markets outside the floor of stock, future and commodities exchange markets. Also, Item XIII, which established a zero IOF/Exchange rate on the inflow of funds for the acquisition of stocks in public offerings registered with CVM or for a stock subscription, both in case the invested entity was registered before the Brazilian stock exchange, was revoked.

Summarizing, all investments carried out by foreign investor pursuant to Resolution CMN 2,689 rules are now under a zero rate after the new wording of item X, even investments carried out outside the floor of regulated markets.

- **Remittance of JCP and dividends:** The item XII has been changed to restrict the **IOF/Exchange zero rate** to exchange transactions carried out to remit dividends and interest on net equity (JCP) earned by foreign investors arising out only of investments in the financial and capital markets performed pursuant to CMN rules and regulations.

- **Foreign loans and financing:** The new wording of item XIX establishes an **IOF Exchange zero rate** to the inflow and outflow of funds in connection with foreign loans or financing executed as of **October, 23rd, 2008**. Nonetheless, 5.38% IOF/Exchange rate was kept on the inflow of funds out of loans with average minimum term of 90 days or less.

At last, item XX was added into paragraph 1 of article 15, paragraph 1, establishing the general 0.38% IOF/Exchange rate for all other transactions not covered in the preceding items contained in such paragraph.

#### **IOF/Securities (Article 25, RIOF):**

- According to the new wording of the article 25, the IOF/Securities does not apply to financial transactions carried out by public entities or by non-profit, charity and voluntary organizations.

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