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Advogados Associados

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"Migration of Foreign Investment Within Brazil Made Subject to Simultaneous FX Transactions"

National Monetary Council ("CMN") Resolution no. 3,912 of October 7, 2010 requires that nonresidents with investments in variable income investments, carried out within stock exchange and/or futures and commodities exchange (except for derivative structures with pre-established earnings) and/or in listed companies shares that choose to switch to any other investment in the finance or securities markets pursuant to CMN Resolution 2,689/00 can only do so after entering simultaneous foreign exchange ("FX") contracts (constructive exchange transactions in which there is no actual capital flows into or from Brazil).

The Resolution supplements a change in the Decree that governs the Tax on Credit, Exchange and Insurance Transactions or related to Securities ("IOF"), as concerns specifically the exchange transaction taxable event of such tax (known as "IOF/Câmbio"). By subjecting internal market segment migrations to simultaneous FX transactions, the Resolution prevents that foreign investors access first the equity securities market that enjoys a lower IOF/Câmbio tax rate and then migrate to the fixed-income market thereby avoiding the newly increased IOF/Câmbio rate thereon.

The Resolution was published in the Official Gazette edition of October 08, 2010.

THIS IS MERELY AN INFORMATIVE NEWSLETTER, RESTRICTED TO VGL CLIENTS. QUESTIONS AND CLARIFICATIONS ON THE MATTERS CONTAINED HEREIN SHOULD BE ADDRESSED TO OUR OFFICE.

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