

De: Velloza & Girotto
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ADVOGADOS ASSOCIADOS

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Brazilian National Monetary Council amends rule with requirements for the stockholding of financial institutions in other companies

On March 30th, 2012, National Monetary Council Resolution No. 4,062, of March 30th, 2012 (**“Resolution No. 4,062”**) was published on the Brazilian Federal Official Gazette, changing National Monetary Council Resolution No. 2,723, of May 05th, 2000 (**“Resolution No. 2,723”**). The amended Resolution No. 2,723 establishes rules, conditions and procedures for financial institutions and other institutions authorized to operate by the Brazilian Central Bank to have facilities abroad and to hold direct or indirect equity interest in the Brazilian territory or abroad.

The amendments introduced by Resolution 4,062 reflect the concern of National Monetary Council in tracking and controlling corporate transactions performed by financial institutions and other institutions (**“FI”**) authorized to operate by the Brazilian Central Bank (**“BACEN”**), bringing broader transparency to these operations and aiming to have a better assessment of the risk incurred by FIs.

Such change impacts, in a significant way, the operations previously performed under Resolution No. 2,723. As a condition for FI holding equity interest in non-financial institutions, the previous wording of article 8 of Resolution No. 2,723 required solely that BACEN was informed about the transaction.

After Resolution No. 4,062, the acquisition by FIs of equity interest in non-financial institutions in the country or abroad now requires the previous authorization of BACEN. With its new wording, article 8 of Resolution No. 2,723 establishes the requirements for FIs holding equity interest in non-financial institutions. The *caput* of above mentioned article also establishes an exception to the need of previous authorization, which is, “equity interest typical of investment portfolio maintained by investment banks, development banks, development agencies and multiservice banks with investment or development portfolio” (free translation).

The measure aims to give more control to BACEN in the inspection of equity interest transactions performed by FIs, as well as align national regulation with the recommendations of the Bank for International Settlements (BIS). It is also important to mention that the new regulation is aligned with article 30 of Law No. 4,595, of December 31st, 1964, which provides that: “Art. 30. Private financial institutions, exception made for the investment private financial institutions, **can only hold equity interest in any company with express previous authorization of the Brazilian Central Bank**, by means of a justified request, except for the cases of underwriting guarantee, in the conditions of general character to be established by the National Monetary Council” (our emphasis).

Entry into force

The changes brought by Resolution 4,062 have entered into force on the date of its publication (March 30th, 2012).

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São Paulo - SP

Av. Paulista, 901
17º e 18º andares
CEP 01311-100
Tel. 55 (11) 3145.0055
Fax 55 (11) 3145.0050

Rio de Janeiro - RJ

Rua da Assembléia, 10
Sala 1601
CEP 20011-901
Tel. 55 (21) 2509.0055
Fax 55 (21) 2509.1566

Brasília - DF

SRTV Sul, Quadra 701
Cj.D, nº100 - Sala 234
CEP 70340-000
Tel. 55 (61) 3323.8848
Fax 55 (61) 3426.7306