

NEWSLETTER No. 90

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SUMMARY

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CVM PROVIDES GUIDANCE FOR INVESTMENT FUND ADMINISTRATORS ON THE TIME LIMITS FOR PAYMENT OF REDEMPTIONS

On March 9, 2022, the Superintendency of Institutional Investor Supervision (SIN) of the Brazilian Securities Commission (CVM) disclosed CVM/SIN Official Circular 1/2022 (“Official Circular”), with the objective of orienting administrators of investment funds on the time limits for payment of redemptions established in the bylaws of funds and the market regulations in force.

In this respect, Art. 37, III, of CVM Instruction 555/2014 (“ICVM 555”) establishes that “the payment for redemption must be made by check, credit in a bank account or payment order within the time limit established in the bylaws, which may not be longer than 5 (five) business days counted from the date of conversion of the shares,” except in cases of funds reserved for to professional or qualified investors (for whom the regulations afford greater liberty to stipulate these payment conditions).

Thus, the official circular was prepared to clarify the SIN’s interpretation of the term “payment” contained in ICVM 555, as the moment when the financial resources are effectively placed at the disposal of the investor, not to be confused with moments before the processing of the redemption transaction, such as the day of settlement of the redemption by the fund.

The technical area of the SIN holds that the maximum period of 5 business days mentioned in the article must include the time elapsed between the redemption by the fund and the availability of the money to the investor.

To illustrate its interpretation, the SIN included in the Official Circular the following example: “[...] if a redemption requested is settled by the fund on December 2, 2021, but the Money is only placed at the disposal of the investor by a means that does not enable access to that money on the same day (for example, a payment order issued after the close of banking hours), for all effects the payment date of the redemption will be considered to be December 3, 2021.”

Therefore, when the fund’s bylaws stipulate a time limit for payment of redemptions, the administrator must assure that the resources will be available to the investor within the time limit specified in the bylaws, under pain of application of the fine set forth in Art. 37, V, of ICVM 555.

More information, as well as the full text of the Official Circular, can be found at the CVM’s website (www.gov.br/cvm).