

NEWSLETTER No. 91

APRIL 2022



São Paulo

Rua Gomes de Carvalho, n° 1507
2° andar – Vila Olímpia
04547-005 – São Paulo – SP
+55 (11) 4210-4010

Rio de Janeiro

Rua Joana Angélica, n° 228
Ipanema
22420-030 – Rio de Janeiro – RJ
+55 (21) 2523-5960

 **moreira
menezes,
martins**
ADVOGADOS

SUMMARY

NEWSLETTER No. 91 | APRIL 2022

LAW ENACTED TO REDUCE OVERSIGHT FEES OF THE CVM FOR INDIVIDUALS AND SMALL ISSUERS

3

DREI ISSUES CIRCULAR LETTER ON PUBLICATION OF ANNOUNCEMENTS OF UNLISTED COMPANIES WITH ANNUAL GROSS REVENUE UP TO BRL 78 MILLION

4

LAW ENACTED TO REDUCE OVERSIGHT FEES OF THE CVM FOR INDIVIDUALS AND SMALL ISSUERS

On March 30, 2022, Law 14,317/2022 was published, altering Law 7,940/1989 in regards to the calculation of the oversight fee of the securities market, altering Law 6,385/1976 and revoking certain provisions of Laws 8,383/1991, 9,457/1997, 11,076/2004, 11,908/2009 and 12,249/2010 (“[Law 14,317/2022](#)”).

Law 14,317/2022 is the result of conversion of Provisional Measure 1,072/2021, approved by the Senate on March 8, 2022 and the Chamber of Deputies on February 23, 2022. The issuance of this provisional measure was reported in our Newsletter no. 85 (October 2021).

Among the main alterations promoted by Provisional Measure 1,072/2021 (and maintained by Law 14,317/2022) in the way of calculating the oversight fee of the securities market are new values of the fee (in some cases increasing it and in others reducing it). Overall, Law 14,317/2022 reduces the fee charged to small issuers and increases it for larger firms.

Besides this, Law 14,317/2022 implements the following alterations:

- (i) reduction of the oversight fee for individuals by up to 79%;
- (ii) alteration of the nomenclature “independent investment agent”, to “investment adviser”;
- (iii) reduction of the fee of companies engaged in rendering investment advice, provision of portfolio administration and securities consulting by up to 50%;
- (iv) reduction of the fee for small listed companies, investment funds and other market participants, for the purpose of stimulating the entry of new agents and increasing competition and efficiency of the market;
- (v) unification and reduction of the rate on securities offerings, to 0.03% of the value of the offering;
- (vi) inclusion of new categories of market participants;
- (vii) differentiation and reduction of the taxes of “innovation agents” (e.g., crowdfunding platforms and companies authorized to participate in the experimental regulatory environment, or “sandbox”); and

- (viii) alteration of the recurrence of charging the oversight fee, from quarterly to annual, in order to substantially reduce the transaction and operational costs of both market participants and the CVM itself.

With regard to the new categories of market participants subject to the oversight fee included by Law 14,317/2022, we can highlight: (i) foreign companies; (ii) lead intermediaries of public offerings; (iii) representatives of nonresident investors; (iv) risk rating agencies; (v) fiduciary agents; (vi) over-the-counter market entities; (vii) central depositories of securities; (viii) market infrastructure operator institutions; (ix) electronic platforms for collective investing (crowdfunding); and (x) companies authorized to participate in the experimental regulatory environment (sandbox).

Law 14,317/2022 took effect on its publication date, but has been in force since January 1, 2022.

More information, along with the full text of Law 14,317/2022, can be found at the website of the Presidency of the Republic (www.planalto.gov.br).

DREI ISSUES CIRCULAR LETTER ON PUBLICATION OF ANNOUNCEMENTS OF UNLISTED COMPANIES WITH ANNUAL GROSS REVENUE UP TO BRL 78 MILLION

On March 21, 2022, the National Department of Business Registry and Integration (DREI) issued SEI Circular Letter 1121/2022/ME, referring to the publications required by law of unlisted corporations with yearly gross revenue up to BRL 78 million (“[Circular](#)”).

Article 294 of Law 6,404/1976 (Law of Corporations) and the Economy Ministry (ME) Edict 12,071/2021 allow unlisted corporations with annual gross revenue up to BRL million to publish their announcements electronically, by means of the Center for Balance Sheets of the Digital Bookkeeping System (SPED), as an exception to the rule of Art. 289 of Law 6,404/1976 (which in general requires those announcements to be published in a newspaper with large circulation).

Although this matter is covered by specific regulations issued by the DREI, the Department decided it was important to clarify its interpretation of Art. 124 of Law 6.404/1976, according which the call to general meetings must be published at least three times.

In this respect, the DREI clarified that the Center for Balance Sheets of the SPED does not have a way of consultation by date (day, month, year), so that consultation of publications can only be carried out by indicating the CNPJ number or business name, or, alternatively, by the year and type of publication.

For this reason, the DREI clarified that unlisted corporations with yearly gross revenue up to BRL 78 million do not need to publish announcements of general meetings three times via the SPED.

Therefore, in summary, regarding unlisted corporations that fall under the exception of Art. 294 of Law 6,404/1976:

- (i) the announcements can be published electronically at no charge via the Center for Balance Sheets of the SPED and at the company's website, according to item 17.1 of the Manual for Registration of Corporations, contained in Annex V of DREI Normative Instruction 81/2020 and ME Edict 12,071/2021;
- (ii) the calls to general meetings need only be published once via the Center for Balance Sheets of the SPED, in lieu of the rule of Art. 124 of Law 6,404/1976, which requires publication three times;
- (iii) in the case above, companies must continue to observe the legal advance notice period for the announcements;
- (iv) the announcements published via the Center for Balance Sheets of the SPED must indicate a link or the QR Code for access to the company's website, where the relevant information and documents must be available (according to Art. 1, § 2, of ME Edict 12,071/2021); and
- (v) the information and documents must be available at the company's website starting on the date of publication via the Center for Balance Sheets of the SPED, and must continue to be accessible until the conclusion of the meeting.

More information, as well as the full text of the Circular, can be found at the website of the DREI (www.gov.br/economia/pt-br/assuntos/drei).

The Newsletter of Moreira Menezes, Martins Advogados is an exclusively informative publication, and may not be considered as a legal opinion, suggestion or orientation of the Firm, for any purpose.
