

# NEWSLETTER No. 103

APRIL 2023



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# SUMMARY

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CVM PROMOTES CHANGES IN CVM RESOLUTIONS 80 AND 160

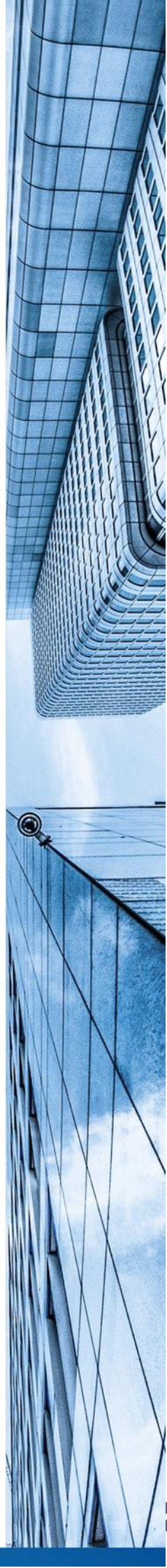
3

CVM POSTPONES ENTRY INTO FORCE OF CVM RESOLUTION 175

4

CVM DISCLOSES ORIENTATIONS ON THE INTERPRETATION  
OF CVM RESOLUTION 175

4



## CVM PROMOTES CHANGES IN CVM RESOLUTIONS 80 AND 160

On March 22<sup>nd</sup>, 2023, the Brazilian Securities Commission (CVM) issued Resolution No. 180/2023, which promotes several noteworthy changes in CVM Resolutions No. 80/2022 and No. 160/2022, for the purpose of making rules clearer and enabling application of automatic processing to subsequent offerings.

In this respect, the following alterations promoted in CVM Resolution No. 80/2022 stand out regarding the registration and disclosure of periodic information by issuers of securities:

- (i) Revision of Annex C, referring to the items of the reference form: revision of items and subitems subject to facultative disclosure in the reference form applicable to companies registered in category B. Among other matters, it is now optional for the referred companies to fill out item 8.6 of the reference form, related to the granting of stock options to the management members of companies;
- (ii) Change in the procedure to obtain registration to issue securities: the CVM's technical area will now only have to issue a manifestation in case of insufficient documentation presented with the request for registration to issue securities, making the registration process faster and more efficient by eliminating the requirement for manifestation in cases in which the documentation presented is satisfactory; and
- (iii) Exclusion of footnotes 90 and 91: the orientations on filling out information regarding the human resources of the issuer on the reference form, as stated in footnotes 90 and 91, have been excluded, due to the doubts these raised among market participants regarding filling out the document.

The main alterations of CVM Resolution No. 160/2022, which involves initial and secondary public offerings of securities, are the following:

- (i) Clarification of the concept of Frequent Fixed-Income Issuer (EFRF): the wording is altered of the definition of the status of EFRF so as to leave no doubts regarding the possibility of offerings benefiting from the automatic process in cases in which a single debtor that underwrites securities is classified as an EFRF;
- (ii) Application of the automatic process for registration of subsequent offerings of shares of closed investment funds: With these alterations, the registration will no longer be required of subsequent offerings for distribution of shares of non-exclusive closed investment funds targeted solely at (a) professional investors; (b) qualified investors; (c) investors in general, as long as a previous offering was submitted to analysis of the CVM without expansion of the target public of the fund or alteration of its investment policy; or (d) investors in general regarding the requirement for prior analysis by a self-regulatory entity authorized by the CVM;
- (iii) Prior analysis by self-regulatory entities: The request for automatic registration in cases

of previous analysis by a self-regulatory entity must be accompanied, at the moment of submitting the request, by the documents necessary for registration of the respective offering for distribution, and until obtaining the registration, of the technical report prepared by the corresponding self-regulatory entity indicating the absence of obstacles or conditions for granting of registration for public offering; and

- (iv) Alteration of the processing of requests for registration of offerings: the technical area will only have to comment in case of insufficient documentation submitted with the request for registration of offerings by the ordinary process, making the process of registering offerings faster and more efficient by forgoing the obligation for manifestation in cases when the documents presented are satisfactory.

CVM Resolution No. 180/2023 took effect on April 3<sup>rd</sup>, 2023.

More information, including the full text of CVM Resolution No. 180/2023, can be found at the CVM's website ([www.gov.br/cvm](http://www.gov.br/cvm)).

## **CVM POSTPONES ENTRY INTO FORCE OF CVM RESOLUTION 175**

On March 28<sup>th</sup>, 2023, the Collegial Board of the CVM issued Resolution No. 181/2023, to promote alterations in CVM Resolution No. 175/2022, and postponed its entry into effect.

CVM Resolution No. 181/2023 altered the timetable for implementation of the new regulatory framework of investment funds (as established by CVM Resolution No. 175/2022), namely:

- (i) postponed its entry into force from April 3<sup>rd</sup>, 2023 until October 2<sup>nd</sup>, 2023; and
- (ii) specified that investment funds functioning on the starting date of CVM Resolution No. 175/2022 must fully adapt to the provisions of that resolution by December 31<sup>st</sup>, 2024, except for receivables investment funds (FIDCs), which must adapt by April 1<sup>st</sup>, 2024.

CVM Resolution No. 181/2023 took effect on March 31<sup>st</sup>, 2023.

More information, including the full text of CVM Resolution No. 181/2023, can be found at the CVM's website ([www.gov.br/cvm](http://www.gov.br/cvm)).

## **CVM DISCLOSES ORIENTATIONS ON THE INTERPRETATION OF CVM RESOLUTION 175**

On April 11<sup>th</sup>, 2023, the Superintendency for Supervision of Institutional Investors (SIN) and Superintendency for Supervision of Securitization (SSE) of the CVM disclosed CVM/SIN/SSE Official Circular Letter no. 01/23 ("Official Circular Letter No. 01/23"), with the objective of clarifying the interpretation of the CVM's technical areas regarding the general provisions of CVM Resolution No. 175/2022.

Official Circular Letter No. 01/2023 is divided into 24 topics and provides answers to 84 doubts received from market agents on various themes related to CVM Resolution No. 175/2022. Among these, the most noteworthy are:

- (i) classification of funds: investment funds that intend to issue a single class of shares will be classified as “singular class” as of the entry into force of CVM Resolution No. 175/2022. In turn, funds that intend to issue more than one class or subclass of shares will only be able to do so as of April 1, 2024, when the rules on the matter take effect;
- (ii) matters waived at general meetings of investors: approval of the general meeting of investors will not be necessary in cases when the bylaws of the fund cover new themes due to the need to adapt to the new regulatory framework. As examples, we can mention the following cases of possible alteration without holding a general meeting: (a) inclusion of a rule by which the fund will have a single class of shares; (b) transformation of feeder funds into subclasses; (c) adjustments of ESG regulations; and (d) definition of the form of communication that will be used by the administrator with investors;
- (iii) end of solely in-person general meetings of investors: it is no longer necessary to hold only in-person general meetings of investors. Furthermore, if the fund’s administrator intends to hold an in-person meeting, the complementary participation of investors by electronic means must be offered;
- (iv) socio-environmental funds: the funds referred to in article 49 of CVM Resolution No. 175/2022 are no longer limited to impact funds, in which regard the concept of “socio-environmental benefits” must be specified by ANBIMA in the scope of its self-regulation; and
- (v) investments by funds with limited liability: investments are permitted by funds with limited liability in the shares of funds with unlimited liability, provided there is maintenance of adequate risk controls so as not to incur situations of negative equity.

More information, including the full text of Official Circular Letter No. 01/2023, can be found at the CVM’s website ([www.gov.br/cvm](http://www.gov.br/cvm)).