

# NEWSLETTER No. 109

OCTOBER 2023



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# SUMMARY

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**CVM PROPOSES NEW RULES FOR PORTABILITY OF SECURITIES  
AND OPENS A PUBLIC CONSULTATION FOR ISSUANCE OF A  
NEW RESOLUTION**

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## **CVM PROPOSES NEW RULES FOR PORTABILITY OF SECURITIES AND OPENS A PUBLIC CONSULTATION FOR ISSUANCE OF A NEW RESOLUTION**

On October 3, 2023, the Superintendency of Market Development (SDM) of the Brazilian Securities Commission (CVM) issued the Announcement of Public Consultation SDM 02/23 (“Announcement”), with the objective of issuing a new Resolution to regulate the portability of securities between brokers, distributors and/or custodians (with “portability” being defined as the transfer of securities without change of ownership).

According to the Announcement, the CVM identified difficulties and inefficiencies faced by investors wanting to move their investments in securities between brokers, distributors and/or custodians. Therefore, the proposals to be submitted to the public consultation seek to ameliorate or eliminate such difficulties and inefficiencies, as well as to improve other points of constriction identified in the current state of the operational flows and portability of investments.

Further according to the Announcement, portability consists of the “first step towards the construction of Open Capital Markets”.

Among the CVM’s proposals, the following stand out:

- (i) According to the CVM, Brazil is the only country in a sample evaluated in the recent Regulatory Impact Analysis carried out by the Commission in which a request for portability must be exclusively formulated to the custodian or broker of origin (i.e., the party from which the security in question is being transferred). For this reason, the proposal is to alter that regime, so that (i.1) the agent able to receive the portability request is shifted to the destination (i.e., the party to which the security will be transferred); or alternatively (i.2) the request is received by a central depository, which then will transmit the request to the custodian of origin and destination.
- (ii) The agents involved must make available a secure digital interface system that allows investors to request portability, obtain detailed information to monitor the progress of the transfer process and/or cancel the request.
- (iii) Stipulation of maximum time limits for each step of processing the portability request, or for its justified refusal, as the case may be.
- (iv) Obligatory development of mechanisms and systems to prevent fraud involving portability requests, so as to safeguard the custodians and brokers.

Before the Announcement, the Regulatory Impact Analysis was concluded, which indicated that any increase in the cost for regulated entities to comply with the new rules will be relatively low and justified by the benefits generated to investors and the stimulus to development of the capital market.

Suggestions and comments to the public consultation must be sent to the SDM by December 8, 2023, to the e-mail address: [conpublicaSDM0223@cvm.gov.br](mailto:conpublicaSDM0223@cvm.gov.br).

More information, along with the full text of the Announcement and Regulatory Impact Analysis, can be found at the website of the CVM ([www.gov.br/cvm](http://www.gov.br/cvm)).

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