

# NEWSLETTER No. 116

MAY 2024



## **São Paulo**

Rua Gomes de Carvalho, nº 1507  
2º andar – Vila Olímpia  
04547-005 – São Paulo – SP  
+55 (11) 4210-4010

## **Rio de Janeiro**

Rua Joana Angélica, nº 228  
Ipanema  
22420-030 – Rio de Janeiro – RJ  
+55 (21) 2523-5960

 **moreira  
menezes,  
martins**  
ADVOGADOS



# SUMMARY

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**B3 ANNOUNCES PUBLIC CONSULTATION ABOUT  
PROPOSED ALTERATIONS IN THE REGULATIONS  
OF THE NOVO MERCADO**

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## B3 ANNOUNCES PUBLIC CONSULTATION ABOUT PROPOSED ALTERATIONS IN THE REGULATIONS OF THE NOVO MERCADO

On May 2, 2024, B3 S.A. – Brasil, Bolsa, Balcão announced Public Consultation no. 01/2024-DIE (“[Public Consultation](#)”), for the purpose of receiving suggestions and comments from market agents, listed companies, investors, regulators, associations, academics and others interested in the proposed revision of the Regulations pertaining to the Novo Mercado special listing segment of the B3 (“[Novo Mercado Regulations](#)”).

The Public Consultation is divided into three blocks: (i) central topics of the reform, including the main themes submitted for discussion; (ii) secondary topics of the reform, to mainly serve for reflection on practices already adopted or adapted in the Novo Mercado Regulations in view of normative changes; and (iii) questions posed to the market, highlighting matters about which B3 wants to gather impressions from participants in the Public Consultation.

In this context, B3 stressed five topics considered “essential” in the proposed reform of the Novo Mercado Regulations:

- (i) Precautionary revision of the Novo Mercado seal: the Novo Mercado seal of a company can be placed “under review” as a precautionary measure, before the commencement of a penalty proceeding under the aegis of the BSM Market Supervision, in the following cases: (i.1) disclosure of a relevant fact that demonstrates the possibility of material error involving financial information, including that related to fraud; (i.2) delay longer than 30 days in delivery of financial information in relation to the deadline set forth in the Regulations; (i.3) publication of a report of the independent auditors with a “modified opinion”; (i.4) petitions for court-supervised reorganization in Brazil or equivalent proceedings in foreign jurisdictions; (i.5) inability to maintain an officer appointed in the bylaws due to jailing or death, without disclosing the substitute or succession plan for longer than 7 business days; (i.6) environmental disasters involving the company; and (i.7) disclosure of a relevant fact about a fatal accident involving workers or service providers of the company, or the existence of labor practices that violate human rights;
- (ii) Better alignment of the activities of senior management with the interests of the company: In this regard, B3 has proposed: (ii.1) that the directors and officers of companies listed in the Novo Mercado can be members of the board of directors of at most 5 other listed companies at the same time, with the position of chairman of the board being computed as “two directors” for this limitation; (ii.2) that independent members can only continue to be designated as “independent” up to the tenth consecutive year of membership on the board of the same company; and (ii.3) the increase of the minimum percentage of independent members of the board of directors of companies of the Novo Mercado, from the current 20% to 30% of the total number of members;

- (iii) Reliability of the financial statements: B3 has proposed that companies present in the annual report declarations about the effectiveness of the internal controls of the company, duly signed by the chief executive officer (or the top executive of the company) and chief financial officer (or the executive responsible for the financial statements). Besides this, there is a suggestion about the need to evaluate the reports by an independent auditor as a way to assure the work done by the company's management is correct;
- (iv) Sanctions: The possibility has been proposed of applying a penalty of ineligibility to hold a position as administrator, member of the audit committee or oversight board of companies listed in the Novo Mercado, for a maximum period of 10 years, in case of conviction in a penalty proceeding conducted under the aegis of BSM Market Supervision, resulting from infraction of the rules on oversight and control issued by B3 (at present, the possibility of ineligibility only exists resulting from administrative penalty proceedings conducted by the Brazilian Securities Commission – CVM). Besides this, in the Public Consultation, B3 has proposed to increase the amounts of the fines that can be applied in penalty proceedings. In this regard, the fines would start at half the maximum amount of the fine, and could be reduced or increased according to aggravating or attenuating circumstances; and
- (v) Arbitration – Market Chamber: B3 has proposed that the Market Chamber be empowered to accredit other arbitration chambers that can be identified in the bylaws of listed companies for resolution of disputes. The accreditation would be granted by satisfying the technical criteria to be opportunely defined by B3.

Among the secondary topics of the reform, the standouts are: (i) the proposal for the audit committee to be obligatory for all companies listed in the Novo Mercado; and (ii) the suggestion for disclosure of the number of complaints received per year via the whistleblowing channels of the company in the reference form, along with the penalties applied.

Finally, B3 has formulated the following questions posed to the market, which so far are not among the suggested alterations of the Novo Mercado Regulations:

- (i) “In your opinion, should B3 demand that the companies listed in the Novo Mercado include in their compensation policies minimum rules for deferral and recovery of remuneration by the company? In the case of clawback, should such rules be restricted to the administrators who are directly linked to the facts motivating the recovery of remuneration, or once applied, should they apply to all the administrators? From a labor law perspective, is there any caveat you believe should be indicated?”
- (ii) “In your opinion, should B3 demand that the companies listed in the Novo Mercado have an integrity policy? If so, what would be the main terms to be contemplated? Should it extend to suppliers? If not, should the code of conduct deal with any specific aspect contained in the integrity policies?”.

Suggestions and comments involving the Public Consultation should be sent to B3 by August 2, 2024, to the e-mail address [sre@b3.com.br](mailto:sre@b3.com.br).

More information, as well as the full text of the Public Consultation, can be found at the website of B3 ([www.b3.com.br](http://www.b3.com.br)).

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