

NEWSLETTER No. 145

OCTOBER 2026



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SUMMARY

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RESTRICTS "FIDC" INVESTMENTS IN RIGHTS ARISING FROM
JUDICIAL OR ARBITRAL PROCEEDINGS**

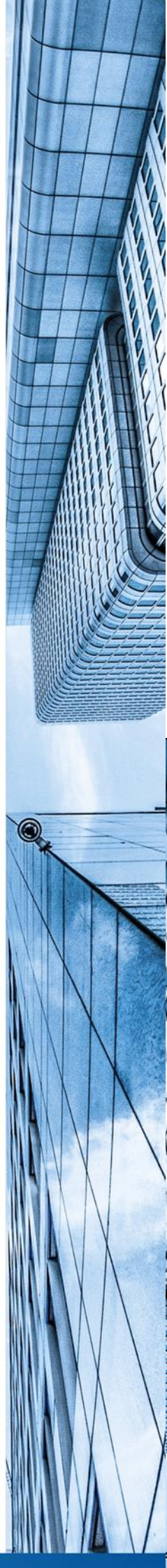
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BRAZILIAN NATIONAL MONETARY COUNCIL RESOLUTION RESTRICTS "FIDC" INVESTMENTS IN RIGHTS ARISING FROM JUDICIAL OR ARBITRAL PROCEEDINGS

On September 24, 2026, the Brazilian National Monetary Council (Conselho Monetário Nacional – “CMN”) issued [CMN Resolution No. 5,343](#) (the “Resolution”), amending CMN Resolution No. 2,907 of November 29, 2001, to establish new rules applicable to Receivables Investment Funds (Fundos de Investimento em Direitos Creditórios – “FIDCs”) and FIDC Fund of Funds (Fundos de Investimento em Cotas de FIDCs – “FIC-FIDCs”).

The Resolution prohibits FIDCs and FIC-FIDCs from making, whether directly or indirectly, investments in rights or contingent rights arising from judicial proceedings or arbitral proceedings until the underlying credit has become final, liquid, certain, and legally enforceable.

For purposes of the new rule, claims arising from judicial proceedings will only be deemed final if all of the following conditions are satisfied:

- (I) the decision recognizing the underlying right in the merits phase (fase de conhecimento) has become final and no longer subject to appeal (transitado em julgado);
- (II) where necessary to determine the amount due, the decision rendered in the liquidation phase (fase de liquidação) has likewise become final and no longer subject to appeal; and
- (III) the statutory period for challenging the enforcement of the judgment or filing objections to enforcement has expired without any such challenge being filed or, if filed, the decision resolving the challenge has become final and no longer subject to appeal.

With respect to claims arising from arbitral proceedings, the Resolution requires:

- (I) the issuance of a partial or final arbitral award recognizing the underlying right and determining the amount due; and
- (II) the expiration of the statutory period for filing an action seeking to set aside the arbitral award without such action being commenced or, if commenced, the issuance of a final, non-appealable decision dismissing the action or terminating it without a decision on the merits.

The prohibition also extends broadly to investments in domestic or foreign securities whose underlying assets, guarantees, remuneration, or payment flows are linked to such rights or contingent rights, including interests in investment vehicles holding these assets in their portfolios and derivative instruments whose underlying assets correspond, directly or indirectly, to such rights or contingent rights.

For FIDCs and FIC-FIDCs that already hold rights or contingent rights which become prohibited under the Resolution, specific obligations have been established regarding the valuation of such receivables and the monthly disclosure of information to the market.

The prohibition on new investments in rights and contingent rights that do not satisfy the requirements of finality, certainty, liquidity, and enforceability will become effective on October 13, 2026. The disclosure and valuation obligations applicable to existing portfolios holding such assets will become effective on January 4, 2027.

Further information, including the full text of CMN Resolution No. 5,343, is available on the CMN's website (<https://www.gov.br/fazenda/pt-br/assuntos/cmn>).

CVM RESOLUTION NO. 249 ESTABLISHES PILOT PROGRAM FOR TOKENIZATION TESTING

On October 14, 2026, the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários – “CVM”) issued [CVM Resolution No. 249/2026](#), establishing the CVM DLT Pilot Program (the “[Program](#)”), which entered into force on the same date. The initiative creates an experimental environment for testing the issuance, offering, distribution, trading, registration, custody, central securities depository services, and settlement of securities using Distributed Ledger Technology (“[DLT](#)”) networks.

The Program aims to assess the technical, operational, and legal feasibility of using DLT in the securities market, as well as interoperability between different networks and the existence of potential risks, vulnerabilities, and regulatory gaps. The initiative was developed following discussions conducted by the Tokenization Working Group (Grupo de Trabalho de Tokenização – “[GTT](#)”), comprising representatives from fourteen CVM departments. According to the CVM, the Program was designed to avoid adopting parameters tied to specific technologies, thereby preserving flexibility for future innovations.

Under the Program, experimental transactions may involve shares, corporate bonds, receivables certificates, investment fund quotas, and other securities or collective investment contracts. The CVM will monitor the tests through mechanisms providing access to the selected networks, including the possibility of reviewing transaction records in real time. Management of the testing networks may be entrusted to associations representing entities authorized, registered, or accredited by the CVM, as well as self-regulatory organizations operating in the securities market.

The Program will be coordinated by a Steering Committee (the “[Committee](#)”), composed of CVM representatives who are members of the GTT. The testing period will last sixty (60) days, extendable by up to thirty (30) additional days, after which participants must submit reports to the Committee. Based on the results, identified risks, and other information gathered during the experimental transactions, the Committee will prepare a consolidated final assessment report and submit it to the CVM's Board, including recommendations for potential improvements relating to the implementation and operation of the Program.

Further information, including the full text of CVM Resolution No. 249/2026, is available on the CVM's website (www.gov.br/cvm).

BRAZILIAN COURTS MAY HEAR ACTIONS TO SET ASIDE FOREIGN ARBITRAL AWARDS

On October 6, 2026, the Third Panel of the Brazilian Superior Court of Justice (Superior Tribunal de Justiça – “STJ”) unanimously recognized the jurisdiction of Brazilian courts to hear and adjudicate actions seeking to set aside foreign arbitral awards. The ruling was issued in Special Appeal No. 2,224,272/SP, reported by Justice Nancy Andrighi.

The dispute arose from a share purchase agreement involving a financial institution, which provided for arbitration seated in New York. The parties had chosen Brazilian law to govern the arbitral proceedings and designated the courts of São Paulo, Brazil, as the competent forum for any action seeking to set aside the arbitral award. The underlying dispute concerned amounts held in an escrow account to cover contingencies identified after the closing of the transaction.

Following the issuance of the arbitral award, the seller filed an action seeking to set it aside, alleging, among other grounds, that the award exceeded the scope of the arbitration agreement. Although the trial court recognized Brazilian jurisdiction and dismissed the claim on the merits, the São Paulo’s Court of Appeals (Tribunal de Justiça de São Paulo – “TJSP”) dismissed the proceedings for lack of a legitimate interest in bringing the action, reasoning that judicial review of a foreign arbitral award should take place exclusively through recognition proceedings before the STJ.

In reviewing the appeal, the Third Panel attached particular significance to the combination of the parties’ choice of procedural law and their forum selection clause. The decision relied on Article V(1)(e) of the New York Convention, which permits refusal of recognition and enforcement of an arbitral award that has been set aside by a competent authority of the country in which the award was made or under whose procedural law the arbitration was conducted, as well as Article 22(III) of the Brazilian Code of Civil Procedure, which recognizes the jurisdiction of Brazilian courts where the parties have expressly or tacitly submitted to it.

In her opinion, Justice Nancy Andrighi emphasized that the choice of Brazilian law to govern the arbitral proceedings, even where the arbitration is seated abroad, allows Brazilian courts to exercise jurisdiction over an action seeking to set aside the resulting award, an interpretation also supported by prominent legal scholars. By contrast, the mere choice of Brazilian substantive law to govern the contract and the merits of the dispute would not produce the same result.

Having granted the Special Appeal, the STJ ordered the case to be remanded to the TJSP for further consideration of the dispute, with the issue of Brazilian jurisdiction having been resolved.

Further information is available on the STJ’s website (<https://www.stj.jus.br/>).