

**\_ Brazilian Securities and Exchange Commission (CVM) discloses Circular Letter (Ofício Circular) with general guidelines for publicly-held corporations**

In February 2016, CVM disclosed Circular Letter CVM/SEP 02/2016, which provides general guidelines for publicly-held corporations regarding the disclosure of information and the execution of certain transactions.

Annually CVM discloses these general guidelines, providing a consolidation of rules and CVM general understandings regarding relevant and the day-by-day issues of publicly-held corporations. This year, the Circular Letter provided the following important news:

- \_ the significant changes to the Reference Form based on CVM Instruction 552, which came into force on January 1st, 2016;
- \_ the distance voting system introduced by CVM Instruction 561;
- \_ the changes introduced by CVM Instruction 565 on the rules applicable to mergers, spin-offs and mergers of shares involving issuers of securities registered in "A" category;
- \_ the new rules on negotiation with its own shares, by publicly-held corporations, according to CVM Instruction 567; and
- \_ the changes set forth in CVM Instruction 568 regarding the disclosure of information on the position of investors in shares of publicly held corporations and derivatives.

CVM INFORMED THAT THIS CIRCULAR LETTER HAS THE PURPOSE OF ENCOURAGING THE DISCLOSURE IN A COHERENT WAY AND IN CONFORMITY WITH THE BEST CORPORATE GOVERNANCE PRACTICES.

The Circular Letter can be accessed at:  
<http://www.cvm.gov.br/export/sites/cvm/legislacao/circ/sep/anexos/oc-sep-0216.pdf>.

### **\_ First Decision by the Brazilian Superior Court of Justice (STJ) on an Insider Trading criminal claim**

On February 16, 2016, a decision on the criminal claim regarding insider trading involving former managers of Sadia/Perdigão was awarded. It is the first decision on an insider trading criminal claim ever awarded by a criminal court in Brazil. In this decision, the former managers of Sadia S.A. were considered guilty for having used insider information in relation to the tender offer launched by Sadia S.A. to acquire Perdigão S.A., by negotiating offshore American Depositary Receipts (ADRs) representing shares issued by Perdigão S.A.

The decision confirmed the prison sentence (replaced by: (i) community service activities and (ii) prohibition to exercise any management or Audit Council (Conselho Fiscal) position at any publicly-held corporation for the time of the prison sentence) and a fine in the amount of approximately R\$350 thousand.

Furthermore, all of the arguments presented by CVM in the claim were confirmed by the superior courts, among them, the following shall be highlighted:

- i. insider trading is a crime of formal nature

and abstract danger and, therefore, does not depend on the result thereof.

- ii. even if the corporate transaction is not closed, as it happened with the tender offer launched by Sadia S.A. to acquire Perdigão S.A., the information may be considered relevant, even in the initial stage of negotiation, as long as it is capable of affecting the investment decision of any investor; and

- iii. the defendant's conduct presents a high degree of disapproval.

### **\_ Report on Brazilian Capital Abroad (Declaração de Capitais Brasileiros no Exterior - CBE)**

Between February 15 and April 5, 2016, individuals or legal entities resident, domiciled or headquartered in Brazil shall provide to the Brazilian Central Bank the annual report with information on assets they own abroad as of December 31, 2015.

The report shall be sent to the Central Bank of Brazil by filling up a form called Report on Brazilian Capital Abroad (Declaração de Capitais Brasileiros no Exterior - CBE).

In addition to the annual report, it is also mandatory to provide quarterly reports according to the following schedule:

**BASE DATE**

March 31, 2016  
June 30, 2016  
September 30, 2016

**DEADLINE**

April 30 – June 5, 2016  
July 31 – September 5, 2016  
October 31 – December 5, 2016

THE ANNUAL REPORT IS EXCUSED IF THE ASSETS AND FUNDS HELD ABROAD ARE IN AN AMOUNT LOWER THAN US\$100,000.00 ON THE BASE DATE AND THE QUARTERLY REPORTS ARE EXCUSED IF SUCH ASSETS AND FUNDS HELD ABROAD ARE IN AN AMOUNT LOWER THAN US\$100,000.000.00 ON THE RESPECTIVE BASE DATES.

The non-compliance in sending the reports when due may result in fines of up to R\$ 250,000.00.

The CBE form can be accessed at:  
<http://www4.bcb.gov.br/rex/cbe/port/cbe.asp>.

*This newsletter was prepared by Carneiro de Oliveira Advogados and shall not be interpreted as legal advice on the matters discussed herein.*