



CVM revises and reduces content of the reference form

On December 22, 2021, the Brazilian Securities and Exchange Commission (“CVM”) issued Resolution No. 59 (“Resolution 59/2021”), which amended CVM Instruction No. 480/2009, and CVM Instruction 481/2009, with the aim to reduce the cost of compliance and review and reducing the content of the reference form (Formulário de Referência), in addition to providing greater transparency in the disclosure of information of environmental, social and governance nature (“ESG”), in order to follow the global trend. The aforementioned rule was edited after a public hearing was held, which received comments between December 07, 2020 and March 08, 2021.

The main changes made to CVM Instructions 480 and 481, as a result of the passing of Resolution 59/2021 are:

- Reduction from 3 (three) to 1 (one) fiscal year of the time horizon in relation to which the information must be provided in the reference form (Formulário de Referência), by companies already registered, including when they present the document within the context of a public offering.
 - Limitation of the requirement for management comments only to significant changes to items in the income and cash flow statements, instead of comments on each item regarding the financial statements.
 - Reformulation of the presentation of risk factors, with greater emphasis on 5 (five) which are considered to have the greatest impact on the company.
 - Inclusion of new information on ESG aspects, in particular with regard to climate issues, in a “practice-or-explain” format.
 - Additional clarifications on the provision of information regarding the diversity of the body of managers and employees and provision for the opening of information by hierarchical level, in the case of employees.
- Additional rules regarding the communication of related party transactions specifically in relation to the execution of related transactions.

Regarding disclosure of ESG information, the reform imposes an obligation on companies to inform whether they disclose information on ESG indicators in an annual report or in another type of document, and if so, provide more detailed information.

Finally, it is worth mentioning that Resolution 59/2021 comes into force on January 2, 2023, considering the need to adapt systems and routines of companies. As a result, the annual update of the 2022 Reference Form shall still observe the rules and content of the Reference Form prior to Resolution 59/2021.

Nevertheless, CVM suggests that, since the information to be disclosed in 2023 will have the fiscal year ended in 2022 as the base date, companies should start preparations to report the new information, especially regarding ESG, before its entry into force.

Resolution 59/2021 can be accessed in Portuguese through the following link:

<http://conteudo.cvm.gov.br/legislacao/resolucoes/resol059.html>



Legislative and regulatory updates regarding publications ordered by the Brazilian Corporate Law, in particular for financial statements

On January 1, 2022, the new wording of article 289 of Law No. 6,404/76 (“Brazilian Corporate Law”) came into force, which was amended by Law No. 13.818/2019, which allows publications in a summarized form and in a newspaper, therefore, publication in the Official Gazette is no longer mandatory. Nevertheless, the full version of the corporate acts and financial statements published in summary form must be available for access on the website of the newspaper, with digital certification of the authenticity of the documents.

Regarding the publication of financial statements in a summarized form, it shall contain, at least, in comparison with the data of the previous fiscal year, information or global values related to each group and the respective classification of accounts or records, as well as extracts of the material information contemplated in the explanatory notes and in the opinions of the independent auditors and the fiscal council (conselho fiscal), if applicable.

In order to provide guidance to listed companies on the new format to publish their financial statements, on December 20, 2021, the CVM issued a Guidance Opinion No. 39, in which it stated the minimum required information to be published (“Guidance Opinion 39/2021”).

Guidance Opinion 39/2021 also includes the wording of notices that shall necessarily precede the summary of the financial statements, in order to avoid any doubts by readers.

With regarding to the requirement contained in the new wording of the Brazilian Corporate Law on minimum information, CVM understands that the following information must be disclosed, compared to data from the previous fiscal year: (i) summarized balance sheet; (ii) summarized income statement for the year; (iii) summary statement of comprehensive income; (iv) summary statement of cash flows; (v) summary statement

of changes in equity; and (vi) summary statement of added value. It is important to emphasize that Guidance Opinion 39/2021 details how the aforementioned information should be presented.

It is also worth mentioning that the new wording of article 289 of the Brazilian Corporate Law allows the disclosure of explanatory notes in a summarized form, which must be prepared based on the complete explanatory notes available in the audited financial statements, in addition to the disclosure of the relevant parts of the independent auditor and fiscal council (conselho fiscal) opinion, if applicable.



Law No. 13.818/2019, which amended the Brazilian Corporate Law, and CVM Guidance Opinion No. 39/2021 can be accessed in Portuguese through the following links:
http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Lei/L13818.htm#art1
<http://conteudo.cvm.gov.br/legislacao/pareceres-orientacao/pare039.html>



Proximity of the deadline for adaptation of listed companies to the changes of the Novo Mercado Regulation

The deadline for the adaptation of listed companies to the rules of the Novo Mercado Regulation in force since January 2, 2018 is approaching. The initial deadline was supposed to expire at the ordinary shareholders' meeting that would approve the 2020 financial statements, but was extended by B3 SA - Brazil, Bolsa, Balcão for the ordinary shareholders' meeting that approves the 2021 financial statements, through the Official Letter No. 005/2020-VOP of April 7, 2020, given the uncertainties caused by the beginning of the COVID-19 pandemic.

The adaptation period is only applicable to companies that had already entered the Novo Mercado segment on January 2, 2018.

The Novo Mercado regulation in force since January 2, 2018 and the Official Letter No. 005/2020-VOP of April 7, 2020 can be accessed in Portuguese, respectively, through the following links:

<https://www.b3.com.br/data/files/B7/85/E6/99/A5E-3861012FFCD76AC094EA8/Regulamento%20do%20Novo%20Mercado%20-%202003.10.2017%20%28Sancoes%20pecuniarias%202019%29.pdf>

https://www.b3.com.br/data/files/11/61/FA/1F/E8F51710C-F51CE07AC094EA8/OC%20005-2020-VOP%20Orientacoes%20aos%20emissores_Flexibilizacoes%20regulatorias_RAS2.pdf

