

CVM eases rules for legal publications of small sized listed companies

On September 1, 2022, the Brazilian Securities and Exchange Commission (“CVM”) edited CVM Resolution No. 166 (“[RCVM 166](#)”) in order to make easier to disclosure publications required by Law No. 6404, of December 15, 1976, as amended (“[Brazilian Corporate Law](#)”) for small sized listed companies, considered as those whose annual gross revenues are lower than five hundred million reais (R\$500,000,000.00).

RCVM 166 allows small sized companies to disclose the publications required by the Brazilian Corporate Law and by CVM itself through Empresas.Net or Fundos.Net systems, with no additional charges. The publications will be considered to have been disclosed on the dates they were released on the aforementioned systems.

Regarding the publications carried out by third parties, as it is the case of a bid offer, provided for in article No. 258 of the Brazilian Corporate Act, the third party may send the applicable documents to the company, which will be responsible for the immediate publication in the Empresas.Net or Fundos.Net systems. If the company does not disclose the documents sent, the third party shall arrange its disclosure in a wide circulation newspaper published at the same place of the company’s headquarters.

According to João Pedro Barroso do Nascimento, current President of CVM, RCVM No. 166, which will come into effect on October 3, 2022, brings important modernization, which will make companies and the business environment more flexible and unburdened. It is a flexibilization that generates cost reduction.

RCVM 166 can be accessed in Portuguese through the link below:

<https://conteudo.cvm.gov.br/export/sites/cvm/legislacao/resolucoes/anexos/100/resol166.pdf>



CVM regulates on rules of the Brazilian Corporate Law on plural voting and on the composition of the Board of Directors of listed companies

On September 20, 2022, CVM edited CVM Resolution No. 168 (“RCVM 168”), which seeks to regulate legal provisions introduced by Law No. 14.195/2021 in the Brazilian Corporate Law, regarding the composition of the board of directors of listed companies and plural voting on shareholders’ meetings.

Among the changes is the possibility of accumulating the positions of chief executive officer and of chairman of the board of directors in small sized companies whose annual gross revenues are less than five hundred million reais (R\$500,000,000.00).

The RCVM 168 also determined that, pursuant to article 140, 2nd paragraph of the Brazilian Corporate Law, it is mandatory for independent directors to participate in listed companies’ board of directors who cumulatively meet the following requirements:

- are registered in category A;
- have securities admitted for trade on the stock exchange market by an entity that manages an organized market; and
- have shares or Depositary Receipts outstanding.

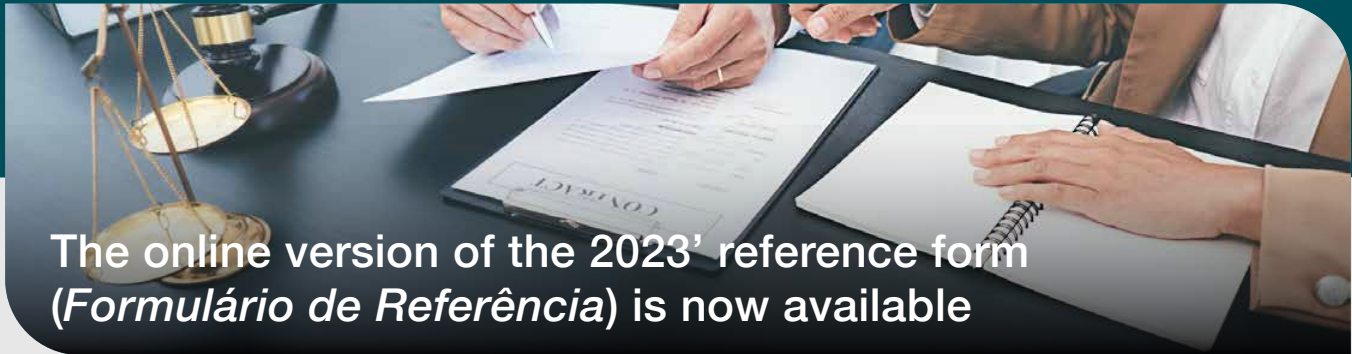
Regarding the classification of members of the board of directors as independent, RCVM 168 adopted equivalent criteria as those covered in the Novo Mercado Regulation.

In addition, RCVM 168 also established that plural voting does not apply to shareholders’ meetings that resolve on related party transactions that must be disclosed pursuant to Appendix F of CVM Resolution No. 80, which addresses the related party transaction communication.

The changes will come into effect on October 3, 2022, provided that the changes regarding the management of companies only apply to managers’ terms starting from January 1, 2023 on.

RCVM 168 can be accessed in Portuguese through the link below:

<https://conteudo.cvm.gov.br/export/sites/cvm/legislacao/resolucoes/anexos/100/resol168.pdf>



The online version of the 2023' reference form (*Formulário de Referência*) is now available

On August 28, 2022, CVM/SEP Letter No. 04/2022 was published by the CVM to inform listed and foreign companies about the continuity of the migration process of structured forms to online platform Empresas.Net system.

The measure promises to bring more agility in navigating the Empresas.Net system by eliminating the need to download and run the application on a computer.

In this regard, the test period of the new platform for sending the reference form (*Formulário de Referência*), FRe Online, began on September 1, 2022, and is now available on Empresas.Net system.

During the test period, companies may send CVM suggestions for improvements to enhance its navigation. This is extremely important since the use of the new platform will be mandatory **from January 1, 2023**.

FRe Online already reflects the new structure of the reference form established by CVM Resolution No. 59, which will come into force on January 02, 2023. If, on one hand, the resolution, among another measures, simplified the structure of the reference form by excluding some items, on the other hand it included the requirement for disclosure of new information, such as, for example, information related to ESG topics and practices.

The full CVM Letter No. 04/2022 and the Empresas.Net System can be accessed in Portuguese through the following links:

CVM Letter:

<https://conteudo.cvm.gov.br/legislacao/oficios-circulares/sep/oc-sep-0422.html>

Empresas.Net System website

<https://www.rad.cvm.gov.br/ENET>