



Ordinary Shareholders' Meetings and Quotaholders' annual meetings

In the upcoming months, corporations and limited liability companies shall disclose their financial statements and call their Ordinary Shareholders' Meetings or Quotaholders' annual meetings, as appropriate, regarding the financial year ended on December 31st, 2022.

Matters to be Discussed and Preparatory Proceedings to Ordinary Shareholders' Meetings and Quotaholders' Annual Meetings

All corporations, listed and non-listed, need to hold, within the first 4 months following the end of the fiscal year, an Ordinary Shareholders' Meeting: (i) to examine the management accounts, analyze, discuss and vote the financial statements; (ii) to deliberate on the destination of the net profit of the relevant financial year and on the distribution of dividends; and (iii) to appoint managers and the members of the Fiscal Council (Conselho Fiscal), as applicable.

Additionally, corporations must prepare the documents listed in art. 133 of Law No. 6.404/1976 ("Brazilian Corporate Law") and publish a notice informing its shareholders that such documents are available at the company's headquarters; in the case of listed companies, the documents must also be available on the company's IR website, as well as in the Brazilian Securities and Exchange Commission ("CVM"),

and B3 S.A. - Brasil, Bolsa, Balcão ("B3") websites. This publication is waived if the companies publish their financial statements up to 1 month before the date set for the Ordinary Shareholders' Meeting or when such meeting gathers all the shareholders.

Nevertheless, corporations must publish their financial statements before the Ordinary Shareholders' Meeting is held, according to the instructions below:

- Those whose annual gross revenue is up to R\$78 million may do so electronically through the SPED System (*Central de Balanços do Sistema Público de Escrituração Digital – SPED*), pursuant to article 294, III, of the Brazilian Corporate Law and, according to Ordinance ME No. 12.071/2021 and Ordinance N° 10.031/2022;
- Listed companies with individual gross revenues of less than 500 million Brazilian Reais in the last fiscal year, classified as small sized companies pursuant to article 294-B of the Brazilian Corporate Law and CVM Resolution 166/2022 ("RCVM 166"), may do so electronically through the Empresas. NET system (CVM's system for disclosure of documents); and



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- For other companies, the publication must be carried out in a widely circulated newspaper, and it may be done in a summarized form, subject to the provisions of article 289, II of the Brazilian Corporate Law and Opinion CVM No. 39, applicable to listed companies, with simultaneous disclosure of the full documents on the same newspaper's website, which must provide digital certification of the authenticity of the documents maintained on its own page issued by a certifying authority accredited within the Brazilian Public Key Infrastructure (ICP-Brasil).

Regarding **limited liability companies**, within the first 4 months following the end of the fiscal year, they need to hold a meeting in order: (i) to examine the management accounts, analyze, discuss, and vote the financial statements; (ii) to appoint management, as necessary. The meeting is not necessary in case all the shareholders decide, in writing, on the aforementioned matters.

Financial Statements of Large Companies

Pursuant to Law No. 11.638/2007, limited liability companies, or group of companies under common control, which, in the 2022 fiscal year, recorded assets in an amount higher

than R\$240 million or annual gross revenue in an amount higher than R\$300 million shall: (a) prepare their financial statements in agreement with the applicable rules set forth in the Brazilian Corporate Law; and (b) submit the financial statements to the appreciation of an independent auditor registered at Brazilian CVM.

After the publication of Circular Letter SEI No. 4742/2022/ME by the National Department of Business Registration and Integration -DREI, the understanding that the publication of financial statements for these companies is optional was confirmed, and Boards of Trade were instructed to follow this guideline, so that the filing of corporate acts of such companies will not be rejected on the grounds of lack of proof of said publications.

Digital Meetings

Pursuant to Law No. 14.030/2020, the ordinary shareholders' meetings and quotaholder's annual meetings may be held partially or exclusively in a digital form, and must comply with the applicable rules established by CVM Resolution No. 81/2022, as amended, in the case of listed companies, and/or those of the National Department of Business Registration and Integration ("DREI"), in the case of closely-held corporations and limited liability companies.



CVM's Annual Letter News

CVM's Superintendence of Corporate Relations ("SEP") disclosed, on February 28, 2023, the Annual Circular Letter 2023 ("Letter"), which provides guidance on regulatory updates and on the procedures that listed, foreign and supported companies must comply with, in addition to pointing out important CVM's board rulings ("Annual Letter").

Among the new guidelines, the following stand out:

- Publications: flexibility in carrying out publications ordered by the Brazilian Corporate Law or provided in CVM regulations by small sized listed companies (i.e., those with annual gross revenue of less than R\$ 500,000,000.00 (five hundred million reais), based on the financial statements of the last fiscal year), according to RCVM 166, which allows for such publications to be made through the Empresas. NET systems;
- Acquisition of a company or corporate interest by listed companies: guidance on the minimum information that shall be included in the document disclosing the operation (material fact or communication to the market, subject to the applicable regulation) to enable better understanding of the transaction, including the main conditions of the business (such as price and payment terms), as well as financial and/or operational information about the acquired business;
- Business Environment Improvement Law: CVM Resolution No. 168/2022 regulated and gave practical applicability to Law No. 14.195/2021, which provides for (i) the mandatory separation between the functions of chairman of the board of directors and CEO or principal executive of listed companies whose consolidated gross revenue is less than R\$ 500,000,000.00 (five hundred million Brazilian Reais); and (ii) the mandatory presence of at least 20% independent members on the board of directors of listed companies that cumulatively meet the following criteria: (a) registered in category A, (b) have securities admitted for trading on a stock exchange, and (c) have shares or depositary receipts outstanding; and



CVM's Annual Letter News

- Guidelines to fill out the Reference Form (*Formulário de Referência*), according to its new structure provided for in CVM Resolution No. 59/2022.

The Letter can be accessed in Portuguese through the link below:

<https://conteudo.cvm.gov.br/legislacao/oficios-circulares/sep/oc-anual-sep-2023.html>



Institutional Shareholder Services (ISS) discloses proxy voting guidelines

As usual, Institutional Shareholder Services (ISS) proxy advisory firm released the Benchmark Policy Recommendations for shareholders' meetings to be held from February 2023. It is a guide of voting guidelines for meetings based on best corporate governance practices.

Among the recommendations included in the guidelines, the following are worth highlighting:

- Election of the Board of Directors: recommendation to vote against (i) bundled election or individual members if the board's composition after the election does not have any female members; and (ii) members who are already part of the board of directors of more than 5 companies;
- Board of Directors Structure: recommendation to vote against changes in the board of directors' structure or number of members within the context of company control divergences;
- Installation of the Fiscal Council: recommendation to vote in favor of the installation of the fiscal council, except if candidates have not been indicated/disclosed by management or minority shareholders in a timely manner. In this case, the recommendation is to abstain from this deliberation;
- Management Compensation: in general, the recommendation is to vote in favor of the management compensation, provided that they are presented within the applicable regulatory deadline containing all the elements required by CVM regulation. The recommendation to vote against applies to compensation proposals that are not adequately detailed or clear.

The Benchmark Policy Recommendations can be accessed through the link below:

<https://www.issgovernance.com/file/policy/active/americas/Brazil-Voting-Guidelines.pdf>