



Brazilian Securities and Exchange Commission (CVM) amends terms of CVM Resolution No. 175

CVM issued CVM Resolution No. 187, which entered into force on October 1, 2023, to introduce some changes to CVM Resolution No. 175, a regulatory framework for investment funds that revoked the former CVM Instruction No. 555 and consolidated the regulation of investment funds. Due to the relevant changes brought about by the new regulatory framework and the consequent emergence of doubts and questions regarding its provisions, the new changes introduced in CVM Resolution No. 175 reflect the requests made by market representatives.


These new amendments focus on the general provisions of the rule and its Normative Annexes I, II, III, IV and XI, which cover financial investment funds (FIF), receivables investment funds (FIDC), real estate investment funds (FII), equity investment funds (FIP) and pension funds, respectively.

In the general sphere of the rule, the changes include adjustments in different aspects, such as the transfer of open class quotas, the deadline for reviewing the financial statements, which is now up to 60 days after they are made available to the quotaholders, and the possibility for the custodian to request the administrator to convene quotaholders' meetings.

In the Annexes, several changes were incorporated, including the inclusion of the mention of "Long-Term" in the disclosure of omitted FIF operations, the definition of subclasses of subordinated quotas in FIDCs, the relaxation of rules for the acquisition of credits owed by companies in reorganization, among other changes related to the composition and operation of these funds. The new regulation for investment funds promises to bring significant advances in the financial scenario, improving the transparency and security of investments.

CVM Resolution No. 175 mentioned above was published on the CVM website, and can be accessed through the link below:

<https://conteudo.cvm.gov.br/legislacao/resolucoes/resol175.html>



The extemporaneous registration of a partner's withdrawal does not have retroactive effects

Unanimously, the 4th Panel of the Superior Court of Justice (STJ) decided that the registration with the Board of Trade of a corporate act resolving on the withdrawal of a partner from a company after the deadline provided for by law, that is, 30 days from the signing of the document, does not have retroactive effects, which may lead to its liability for debts assumed by the company.


The central case involved the conversion of a limited liability company into a simple company in 2004, transferring the filing of the company's corporate acts from the Board of Trade to the Registry of Legal Entities. However, the corporate conversion instrument was only registered years after the date of the act, so that the transformation was not properly publicized.

After receiving notices in tax foreclosures related to debts acquired by the company after her withdrawal, the former partner filed a lawsuit against the Board of Trade of the State of Rio de Janeiro to correct the filing date of the corporate change but was unsuccessful in the lower courts.

In the STJ, Reporting Minister Antonio Carlos Ferreira noted that, as from the conversion to a simple company, the corporate acts were registered exclusively with the Civil Registry of Legal Entities, including the corporate act that resolved on the withdrawal of the managing partner of the company. However, in the case in question, the conversion of the type of company was filed with the Board of Trade only a decade later, resulting in the formal permanence of the businesswoman as a managing partner during that period.

According to the Reporting Minister Antonio Carlos Ferreira, *"the registration normally confirms the existence, allowing the identification of the individual entrepreneur or the business company and its submission to the set of business rules due to the economic activity. However, corporate changes need to be disclosed through registration to be effective before third parties."*

The Reporting Minister also pointed out that, according to articles 1,150 and 1,151 of the Civil Code and article 36 of Law 8,934/1994, changes to the articles of



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incorporation take effect from the date they were written, provided that they are registered within the following 30 days, or from the date of registration, if the deadline is not met. In dismissing the appeal, the Reporting Justice concluded that the lack of continuity of the registration with the Board of Trade allowed the lawsuits to be

directed against the former managing partner, due to her formal position in the registered entity.

More information regarding the case can be found at the link below:

<https://tinyurl.com/sa2skf5z>