

INTERNATIONAL CAPITAL AND FOREIGN EXCHANGE MARKET REGULATION

TITLE : 1 - Foreign Exchange Market

CHAPTER : 12 - Import

SECTION : 1 - General Provisions

1. This chapter deals with:
 - a) payment of Brazilian imports in up to 360 days;
 - b) the fine as specified in Law no. 10755, of November 03, 2003, provisioned in section 5.
 2. Imports payable in periods of more than 360 days are subject to registration at the Central Bank of Brazil, according to the terms of specific regulations.
 3. Payments of Brazilian imports should be processed according to the data stated:
 - a) in the Import Declaration or equivalent document registered at Siscomex: or
 - b) in the commercial operation documentation, should the Import Declaration or equivalent document registered at Siscomex not yet be available.
 4. For purposes of these regulations:
 - a) Import Declaration - DI issued with planned payment permits transfers abroad of national or foreign currency as payment for imports;
 - b) DI issued without planned payment does not permit transfers abroad as payment for imports.
 5. (Revoked) Circular no. 3401/2008
 6. (Revoked) Circular no. 3401/2008
 7. (Revoked) Circular no. 3401/2008
 8. (Revoked) Circular no. 3401/2008
 9. (Revoked) Circular no. 3401/2008
 10. For purposes of this chapter, the following are considered as legitimate external creditors provided that this is duly corroborated:
 - a) the foreign exporter;
 - b) the foreign financing agent;
 - c) the foreign guarantor;
 - d) the assignee of the credit abroad.
 11. Import payment may be effected in any currency, independently of the currency recorded at the Import Declaration - DI, including when the currency is the Brazilian real, provided that in payments of imports in foreign currencies other than that recorded at the DI, the amounts involved must have a parity correlation among themselves that is compatible with those practiced by the international market.
 12. Anticipated payment of imports registered for payment within 360 days is permitted, with due compliance with the regulations defined by other entities, particularly the Ministry of Development, Industry and Foreign Trade – MDIC.
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13. The arrangement of import simplified foreign exchange is provided in section 4 of this chapter.
 14. Aside from the provisions of this chapter, the provision in chapters 16 and 17 on Countries with Special Exchange Provisions and Reciprocal Payment and Credit Agreements, respectively, must also be observed, to the extent applicable.
 15. Payment of merchandise that has entered the country without registration in Siscomex must be effected according to the terms of chapters 9 and 10.
 16. In respect to operations with use of letters of credit with immediate payment opened for purposes of reimbursement under the terms of the Reciprocal Payment and Credit Agreement, the corresponding exchange operation must be settled on the same date on which occurs the credit negotiation abroad.
 17. Payments of Brazilian imports in national currency, in Brazil, must be effected through international transfers in Brazilian reais to the credit of a current account denominated in national currency, opened and maintained in Brazil according to the terms of current legislation and regulations, in the name of the legitimate creditor.
 18. Amounts in foreign currency corresponding to commissions on Brazilian imports due to agents, representatives, assigns and/or distributors resident in the country can be:
 - a) transferred abroad, for purposes of completing payment of imports;
 - b) retained in the country, in the name of the beneficiaries.
 19. (Revoked) Circular no. 3401/2008
 20. Exchange operations for purposes of paying Brazilian imports, including those involving principal installments of imports financed over periods of up to 360 days, may be formalized for immediate or future settlement, regarding the maximum period between contracting and settlement of the foreign exchange operation is 360 days.
 21. Payments up to US\$50,000.00 (fifty thousand United States dollars) or its equivalent value in other currencies can also be effected through utilization of an international credit card issued in Brazil or through international postal payments, duly complying with the provisions in chapter 10, as applicable.
 22. For contracts of import simplified exchange:
 - a) data exchange transaction should be recorded on the date of signing of Exchange under the code-specific nature, even in case of advance receipt, being that the Foreign Exchange System automatically generates the event of liquidation of operation by the second day of the exchange contract, subject to contract is not likely to change, cancellation or low;
 - b) in foreign exchange transactions conducted by an intermediary or representative must be observed that the intermediary or representative must be in possession of proxy each of these importers to perform exchange operations and may be performed single operation, since it is attached to the dossier regarding the operation containing the name of each of the importers, indicating their CPFs and value of individual shipments. (NR)
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SECTION : 2 - (Revoked) Circular no. 3454/2009

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SECTION : 3 - Prepayment and Payment on Demand

1. It is considered anticipated payment of imports that effected with up to 180 days prior to date foreseen to:
 - a) the shipment, in cases of merchandise imported definitively and directly from abroad, including operations under the drawbacks system, or when targeted to the Manaus Free Zone, a Free-Trade Area or an Industrial Depot;
 - b) nationalization, in the case of merchandise permitted under another special or atypical customs system.
2. In the exclusive case of machines and equipment with long production cycles or which are manufactured on an order basis, the period of anticipation must be compatible with the production or marketing cycle of the good in question, in which case the contractually agreed upon conditions will prevail including those referring to down payment and intermediate installments, duly noting that the maximum period of anticipation directly with the banking network for imports of this type is 1,080 days in relation to the dates indicated in lines "a" and "b" of the previous paragraph.
3. Should shipment or nationalization of the merchandise not occur up to the date notified at the time of settlement of the exchange contract, the importer must, within a period of up to 30 days, see to it that the amounts corresponding to the payments effected are repatriated.
4. (Revoked)
5. Payment on demand is that effected prior to customs clearance of the merchandise or its admission to an industrial depot, in cases involving merchandise imported definitively and directly from abroad, including operations under the drawback system or targeted to the Manaus Free Port or a Free Trade Area or an Industrial Depot:
 - a) based on the shipment documents of the merchandise remitted directly to the importer or sent through a bank for purposes of charging, with instructions as to release against payment; or
 - b) as a consequence of negotiation abroad of letters of credit issued for payment against presentation of the shipment documents.
6. (Revoked)

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SECTION : 4 - (Revoked) Circular no. 3575/2012

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SECTION : 5 - Fines on Import Operations

1. The fine specified in Law no. 10755, of November 03, 2003, not applies to imports:
 - a) which maturity occurs as of August 04, 2006; or
 - b) that up to August 04, 2006, as foreseen in article 1.II of the Law no. 10755, of 2003, the final limit to settlement of the import foreign exchange contract has not elapsed.
2. Except to provided in paragraph 1, the importer is subject to payment of a fine to be deposited at the Central Bank of Brazil, in cases involving:
 - a) contracting of the exchange operation outside of the time periods established in paragraphs 5 and 7;
 - b) payment of imports in Brazilian real when the DI registered at Siscomex up to December 10, 2004 has been licensed for payment in foreign currency;
 - c) payment with arrears involving imports licensed for payment in Brazilian real;
 - d) payment of the imports not effected in up to 180 days as of the first day of the month subsequent to that foreseen for payment of the import operation, as specified on the DI or for the DIs registered as of November 04, 2003, in the Financial Operations Registry - ROF, depending on the case in question.
3. Payment of imports provided in paragraph 2 must be effected through liquidation of the exchange contract linked to the DI or to the ROF, depending on the case in question; or through credit to a national currency account in the name of the legitimate creditor domiciled abroad and maintained in Brazil in a bank authorized to operate on the exchange market, in which case registration of the operation of that account in Sisbacen must be linked to the DI or to the ROF, depending on the case in question.
4. The fine cited in this section is:
 - a) 0.5% of the equivalent in Brazilian real of the value of the imports in relation to which the arrears has occurred, payment has not been effected or payment has been effected outside of the established time periods and conditions determined in this section;
 - b) calculated by utilizing the rate of exchange at closing as announced by transaction PTAX800 on the day on which the fine is calculated;
 - c) calculated:
 - I. on the date of the exchange contracting or payment in Brazilian real, depending on the case in question, for the irregularities covered in lines "a", "b" and "c" of paragraph 2;
 - II. on the 181st day as of the first day of the month subsequent to that foreseen for payment of the imports, in the case of the irregularity stated in line "d" of paragraph 2.
5. The time periods determined by the Central Bank of Brazil for exchange contracting are as follows:
 - a) Import Declaration registered up to March 17, 1999: for future settlement, observing the following criteria of anticipation:
 - I. prior to the date of registration of the corresponding DI, in imports subject to payment

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- up to the final day of the fifth month subsequent to the month of registration of the DI;
- II. up to the final day of the sixth month prior to the month foreseen for payment on the DI, in all other cases;
- b) Import Declarations registered between March 18, 1999 and October 29, 1999:
- I. for future settlement, prior to the date of registration of the corresponding DI, in the case of imports subject to payment up to the final day of the second month subsequent to the month of registration of the DI;
- II. up to the final day of the month of maturity of the obligation as indicated on the Import Declaration, in all other cases.
6. With regard to indents a.I, a.II and b.I of the previous paragraph, there is no requirement for prior contracting of exchange, provided that the following conditions are cumulatively observed:
- I. that they involve imports in values of less than US\$40,000.00 (forty thousand United States dollars) or the equivalent amount in other currencies for DIs registered up to February 28, 1999, or US\$80,000.00 (eighty thousand United States dollars) or the equivalent amount in other currencies for DIs registered as of March 01, 1999; and
- II. that the country of origin of the merchandise be a member country of Mercosul, Bolivia or Chile, and a signatory country of the ALADI Dispute Resolution Mechanism; and
- III. that the exchange operations be settled up to the final day of the second month subsequent to the month of registration of the DI and, in cases of payment instruments that may be processed under the Reciprocal Payments and Credit Agreement, that such be effected under the terms of the System.
7. The provisions indicated below are applicable to imports financed over periods of more than 360 days subject to registration at the Central Bank of Brazil, when such involve installments with maturities that have occurred up to the final day of the 11th month subsequent to the month of registration of the corresponding DI, which has been duly registered:
- a) up to March 17, 1999:
- I. exchange operations for purposes of payment of installments with maturity up to the final day of the fifth month subsequent to the month of registration of the DI must have been formalized for future settlement prior to the date of registration of the DI;
- II. in all other cases, the corresponding exchange operations must have been formalized up to the final day of the sixth month prior to the month foreseen for payment in the payment schedule of the ROF;
- b) between March 18, 1999 and October 29, 1999:
- I. the exchange operations for purposes of payment of installments with maturity up to the final day of the second month subsequent to the month of registration of the DI must have been formalized for future settlement prior to the date of registration of the DI;
- II. in all other cases, the corresponding exchange operations must have been formalized up to the maturity of the obligation, as foreseen in the payment schedule of the ROF.

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8. With respect to the previous paragraph, payments in Brazilian real of financing registered for settlement in foreign currency and payments in arrears of financing installments registered in Brazilian real are also subject to fine, observing that the fine dealt with in this section does not apply to operations formalized under the terms of Certificates of Registration or Financial Operations Registrations approved up to May 01, 1997.
9. In those cases in which the DI specifies installment payments, the provisions of this section must be observed in relation to each one of the specified installments.
10. The party responsible for deposit of the fine dealt with in this section is:
 - a) the foreign currency seller bank, for imports paid in foreign currency;
 - b) the bank in which national currency has been credited as payment for the imports, in cases involving imports paid in national currency;
 - c) the importer, in all other situations, noting that should the import operation be carried out on the account of and at the orders of a third-party, the party acquiring the merchandise as indicated on the Import Declaration (DI) registered in Siscomex as of November 04, 2003, is jointly and severally responsible for payment of the fine.
11. In the hypotheses foreseen in lines "a" and "b" of the previous paragraph, the bank is notified of the value of the fine through the Central Bank Entry System (SLB) or by another means that guarantees reception of the notification, in which case the bank has a period of five business days as of the date on which notification is received to effect payment of the fine.
12. Should payment of the import not occur according to the terms of the regulations, the fine is charged to the importer and to the acquirer of the merchandise, should such exist, as cited in line "c" of paragraph 10, through an administrative process according to the terms of current legislation and regulations; alternatively, the fine may be deposited at the initiative of the institution itself without the necessity of warning or notification, up to the second business day subsequent to the date on which the fine becomes payable, duly complying with the instructions for receiving of fines and other values due to Central Bank of Brazil for natural and juristic persons that do not have a reserve account with Central Bank.
13. The fine will not be applied in the following situations:
 - a) payment of the merchandise shipped abroad up to and including March 31, 1997:
 - b) payment of imports of petroleum and its derivatives, classified under the following paragraphs of the Common Mercosul Nomenclature – NCM:
 - 2709.00 - Petroleum crude oils and bituminous minerals
 - 2710.11.4 - Naphtha
 - 2710.11.5 - Gasoline
 - 2710.19.1 - Kerosene
 - 2710.19.21 - Diesel Oil
 - 2710.19.22 - Fuel Oil
 - 2710.19.31 - Lubricating Oils without Additives
 - 2711.11.00 - Natural Gas
 - 2711.12 - Propane
 - 2711.13.00 - Butanes
 - 2711.19.10 - Liquefied Petroleum Gas (LPG)
 - 2711.21.00 - Natural Gas
 - 2711.29.10 - Butanes

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- c) payments of imports effected under the drawback system and other systems introduced by the State Minister of Finance;
- d) imports in which the balance for payment is less than US\$10,000.00 (ten thousand United States dollars) or its equivalent in other currencies;
- e) payments of imports of basic foodstuff products, with the objective of meeting situational supply necessities, as defined by the State Minister of Finance;
- f) imports, independently of whether they are or are not financed, in which payment is the responsibility of the federal government, states, municipalities, and Federal District, their foundations and semi-autonomous agencies, including imports effected on a date prior to publication of Law no. 10755, of November 03, 2003;
- g) amounts of fines calculated according to the terms of this section in amounts of less than R\$ 1,000.00 (one thousand Brazilian reals).