

INTERNATIONAL CAPITAL AND FOREIGN EXCHANGE MARKET REGULATION

TITLE : 2 - Brazilian Capital Abroad

CHAPTER : 4 - Hedge (NR)

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1. This chapter deals with hedge operations negotiated with financial institutions abroad at exchanges or the over-the-counter market, according to the terms of National Monetary Council Resolution no. 3312, of August 31, 2005, with the text introduced by Resolution no. 3318, of September 29, 2005.
 2. Financial transfers to and from abroad resulting from operations for purposes of hedging liabilities of a commercial or financial nature subject to international market risks of alterations in interest rates, parities among foreign currencies or merchandise prices may be carried out by individuals or corporate entities resident, domiciled or headquartered in the country in banks authorized to operate on the exchange market.
 3. Duly observing the risks of variation foreseen in item 2, any modality of hedge operation regularly practiced on the international market and offered by financial institutions abroad or by foreign exchanges may be utilized.
 4. Among the rights and obligations referred to in item 2 are included payments and receptions:
 - a) in national currency resulting from transfers of obligations contracted in foreign currency;
 - b) related to imports, exports or internal market negotiation of the merchandise when the prices of such are established on the basis of the price quotes of exchanges abroad;
 - c) operations on commodities and futures exchanges in the country;
 - d) exposures assumed with their clients in the country by banks authorized to operate on the exchange market, provided that such be linked to rights or obligations that can be hedged abroad according to the terms of this chapter.
 5. The provision in this chapter does not apply to operations carried out by investment funds of any type, including those characterized as clients, which are subject to specific regulations.
 6. The bank intervening in the exchange operation formalized for purposes of payment or reception of amounts consequent upon obligations and rights related to hedge operations must comply with the parameters in effect on the international market for similar operations and must be fully certain of the legality and legitimacy of the operation on the basis of evaluation:
 - a) of the documentation submitted by the client; or
 - b) of the qualifications of the client in terms of profile, performance and the financial capacity.
 7. Financial transfers may also be made for purposes of hedging variations in exchange rates and parities among foreign currencies:
 - a) when such transfers are to be used in constituting escrow account deposits;
 - b) when such transfers are required for purposes of hedging external resources to be disbursed in the future.
 8. For purposes of the operations foreseen in this chapter, remittances with the objective of opening current accounts at brokers abroad and making deposits of guarantee margins are permitted, together with financing of such margins by banks authorized to operate in exchange through utilization of external credit lines.
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