

CIRCULAR No. 2,731

Establishes and regulates the electronic declaratory registration of financial operations, Financial Operations Registration Module (*ROF - Registro de Operação Financeira*), contemplated by Resolution n° 2,337, of November 28, 1996.

The Board of Directors of the Central Bank of Brazil, upon the provisions of Resolutions n°s 2,337, of November 28, 1996, and 2,342, of December 13, 1996, of the National Monetary Council,

D E C I D E D:

Article 1st - To establish, as of January 02, 1996, and to regulate, under the form of the Regulation attached to this Circular, the electronic declaration record, in the Financial Operations Registration Module - ROF, of the following operations:

I - Funded imports, through direct funding to the importer by the supplier of the good and/or service, or by other funding entity, or through the concession of lines of credits to banks authorized to operate with currency exchange with headquarters in the Country, to fund importers, with payment dates after 360 days;

II - Leasing with payment date after 360 days;

III - Simple leasing, equipment rental and vessel freight, contracted with non-resident, with no purchase option, with payment date after 360 days; and

IV - Import of goods without exchange coverage, for the purpose of payment of capital of Brazilian companies.

Article 2nd - To authorize the Department of Foreign Capital (FIRCE) to adopt the measures and to pass the complementary rules that become necessary to carry out the provisions of this Circular, including to amend the Regulation attached hereto in relation to operational procedures.

Article 3rd - This Circular Letter enters into force on January 02, 1997, when the following shall be revoked: Circular Letters n°s 289, of February 18, 1976; 330, of January 24, 1977; 416, of January 24, 1979; 419, of February 21, 1979; 446, of July 26, 1979; 479, of December 07, 1979; 534, of May 16, 1980; 2,238, of September 30, 1992; sub-paragraphs "a" to "g", item 1, items 2, 3, 4, and 5, and sub-paragraph "a", item 6, of Circular Letter No. 298, of December 29, 1978, articles 2nd and 3rd, and appendixes I and II of Circular Letter n° 2,165, of May 13, 1991; and Circular Letters n°s 2,173, of May 31, 1991; 2,177, of June 10, 1991; 2,325, of October 06, 1992, and 2,486, of August 31, 1994; Circular Letter FIRCE n° 76, of January 12, 1976; FIRCE Communiqués n°s 25, of December 02, 1975, and 26, of January 09, 1976; Communiqué n° 2,470, of January 19, 1991.

Brasília, December 13, 1996.

Gustavo H. B. Franco
Director

REGULATION ATTACHED TO CIRCULAR N° 2,731, OF DECEMBER 13, 1996, WHICH ESTABLISHES AND REGULATES THE ELECTRONIC DECLARATORY REGISTRATION, FINANCIAL OPERATIONS REGISTRATION MODULE - ROF.

CHAPTER I Record

Article 1st - This regulation applies to the operations defined in the 1st article of Circular No. 2,731, of December 13, 1996.

Article 2nd - The record in the ROF of each operation must be made before the Import Statement - DI (*Declaração de Importação*), based on the statement issued by the importer or by the lessee, through the following transactions of the *Central Bank Information System* (Sistema de Informações Banco Central) - SISBACEN:

I - PEMP500, for the inclusion of record information regarding the entities using the ROF, when necessary;

II - PCEX370, when the system is accessed by the importer or by the lessee through the SERPRO network. The importer and the lessee must register in advance with the Internal Revenue Service (*Receita Federal*) in order to have access to the system;

III - PCEX570, when done through banks, in the name of the importer or lessee.

Article 3rd - In order to make the record it is necessary to inform:

I - the names of the participants in the operation (debtor, supplier, funding entity, lessor, guarantor, and similar);

II - the financial condition and the term of payment of the principal, interest and fees;

III - information from the creditor's statement or from the document including the conditions of the operation, in addition to the guarantor's statement, if any;

IV - other information required by the transaction screen.

Article 4th - The financial conditions of each record may be approved automatically or directed to be analyzed by the Regional Offices of the Central Bank of Brazil which, in turn, will indicate the adjustments necessary for approval.

Sole paragraph - If the SISBACEN does not issue an opinion within five business days, the operations will be automatically approved under the conditions initially informed.

Article 5th - The operations involving entities of the federal, state and county public sector, subject to the prior accreditation mentioned in Decree No. 93,872, of December 23, 1986, shall be directed by the system to the Department of Foreign Capital - FIRCE, in charge of the inclusion of the accreditation letter - indispensable to start the negotiations of the operations - in the ROF.

Sole paragraph - For the purpose of accreditation mentioned in this article, the system shall require, when applicable, information regarding the following documents:

I - state or county law (only for States, the Federal District, Counties, and respective public agencies, including the cases of concession of collateral or guarantee);

II - favorable opinion of the National Treasury Department - STN (*Secretaria do Tesouro Nacional*) and

III - opinion of the Foreign Funding Commission - COFIEX (*Comissão de Financiamentos Externos*) (when the creditor is an international entity).

Article 6th - The inclusion of a Resolution of the Federal Senate into the ROF, related to operations involving the Union, States, the Federal District, Counties, and their respective agencies, including in the cases of concession of collateral or guarantee, shall make it possible to obtain the number of approved ROF, which is indispensable to record the DIs involving currency transactions.

Article 7th - The operations involving international agencies or government agencies as creditors or guarantors are subject to the previous opinion of the Department of Foreign Capital - FIRCE, which shall include specific event into the ROF.

Article 8th - The approval of the financial conditions and the term shall make it possible to obtain the number of the approved ROF, which is indispensable to record the DIs involving the operations regulated hereby.

Article 9th - The term of validity of each approved ROF is 180 days, after which, in the event of no entering of goods, funds, or hire of services, the same shall be automatically canceled.

Sole paragraph - In the case of financed imports supported by lines of credit or from another operation to be carried out after 180 days, the "*Schedule of disbursements*", accessible through the last screen of Option "1 - *Financial Operation Registration*" (*Registro de Operação Financeira*), must be filled out.

CHAPTER II Wires and Transfers

Article 10 - After clearing with customs the entering of funds and/or the hire of services, the importer or the lessee is to record the payment arrangement in the ROF, which is indispensable to make the transfers of the principal, interest, and fees overseas.

Article 11 - If the approved ROF is obtained, the following transfers overseas may be made without the record of the payment arrangement:

I - amount paid cash down and in advance;

II - amounts related to guarantee deposit in the operations of external leasing and simple leasing, equipment rental and vessel freight;

III - other fees expected to be paid before clearing the goods.

Article 12 - In order to record the payment arrangement, in addition to the cleared DI, the evidence of service, or the currency exchange contract evidencing the influx of funds, the following information is required by the system:

I - date and specifications of the contract signed or of any other formal document including the financial conditions of the operation;

II - information regarding the specific events for each type of operation.

Article 13 - The transfers are made by the holder of the ROF record, through banks authorized to operate with currency exchange, and each transfer shall correspond to closing a different currency exchange, complying with the conditions set in the ROF record or in its payment arrangements.

Article 14 - The ROF number is required to be informed in the proper field of the currency exchange contract or in the docket of international transfer in the national currency, at the time of any financial transaction.

CHAPTER III General Provisions

Article 15 - The operations must be recorded in the currency of the residence or headquarters of the holder not residing in the Country, in the currency of origin of the goods or of the funds, or in any other currency, as agreed upon between the parties.

Article 16 - Different records must be made for operations involving different currencies or different financial conditions, i.e., a separate ROF must be made for each tranche, which must be linked among them, using the option of linked ROFs (*ROFs vinculados*) included on the last screen of option "1 - *Financial Operation Registration*" (Registro de Operação Financeira) for each record.

Article 17 - Any fees due in a different currency not included in the ROF must be informed through its equivalent in the ROF's currency, based on the exchange rate of PTAX800, option 5, sell rate (*cotação de venda*), on the date the ROF is recorded.

Article 18 - The operations originally contracted with a payment date before 360 days and that, when refinanced, reach a payment date after 360 days, must be recorded with the ROF before the correction of the DI.

Article 19 - FIRCE's approval of the ROF record is limited to the financial conditions and does not affect the requirement to comply with the other legal requisites required for the type of operation contracted.

Article 20 - Importers must keep updated and organized documents evidencing the information provided available to the Central Bank of Brazil for 5 (five) years after the end date of the operation.

Article 21 - Non-compliance with the provisions of this Regulation shall result in the suspension of the validity record with ROF and, as a consequence, all financial transactions shall be prohibited until the defaults are remedied.

Article 22 - Incorrect, incomplete, ill-timed or the omission of information in the SISBACEN/ROF shall cause statutory penalties, in addition to the penalty described above.

Article 23 - The provisions of the previous item, if found at any time, do not affect the responsibilities that may be identified by the Central Bank of Brazil and include all parts involved in the operation.

CHAPTER IV Funded Imports

Article 24 - The funding terms for the purpose of reimbursement of the principal and of the interest must be counted as of:

- I - the shipping date - in the case of imports funded directly by the foreign exporter;
- II - the customs clearing date - in the case of goods cleared under special or atypical system;
- III - the disbursement - in the cases of funding obtained from other entities overseas;
- IV - the rendering of the service; and

V - disbursement or influx of funds - for the amounts covering local costs, in the case of funding including this characteristic.

Sole paragraph - In the cases contemplated by item III, the following dates are accepted as the initial date for reimbursement of the principal:

- a) shipping date, in the case of a single shipping;
- b) weighted average of the shipping, in the case of many shipping of independent equipment;
- c) last shipping, in the case of goods usable only after complete delivery;
- d) the date the equipment is considered ready to operate, in the case where the exporter is responsible for installing and operating the goods.

Article 25 - The import funding operations made through line of credit with payment dates after 360 (three hundred and sixty) days must be recorded with the ROF by the authorized bank, as debtor, and the disbursements made by the banker granting the line of credit shall be recorded after customs clearance, upon the issuing of the payment arrangement for each importer.

§ 1st - The beginning of the term for the purpose of reimbursement of principal and interest shall start on the date of disbursement of the funds.

§ 2nd - The authorized bank shall be responsible for advising the importers regarding the processing of imports.

CHAPTER V Leasing

Article 26 - In order to obtain the record of the approved ROF of the leasing operations, it is indispensable to indicate the number of the Import License (*Licença de Importação*) - LI, registered with the Foreign Trade Department (*Secretaria do Comércio Exterior*) - SECEX/DECEX.

§ 1st - The documents needed for SECEX/DECEX's analyses shall be specified in the rulings of such Department.

§ 2nd - The opinions from SECEX/DECEX for the operations of "sale-lease-back" and those operations involving national production goods and real estate properties are hereby waived.

Article 27 - The transfer of funds for the constitution of guarantee deposit is limited to 15% of the amount of the operation.

§ 1st - The funds mentioned in this article must be deposited with a financial institution overseas, in the name of the lessor, and shall be cleared when the purchase option is exercised by the lessee.

§ 2nd - In the case of the return of the good at the end of the contract, the amount of the guarantee deposit shall be returned to the lessee or it may be used for a partial or total payment of the guarantee residual amount.

Article 28 - Counting the payment term for these operations shall begin on the date of the Delivery and Acceptance Document or of shipment of the goods.

§ 1st - For operations in which the lessor is different from the supplier of goods, or in the cases of goods manufactured under custom-order, counting from the date of disbursement is accepted.

§ 2nd - For operations of "sale-lease-back" or for the purpose of national production goods or real estate properties, the beginning of the term is the date the funds enter the Country.

Article 29 - In the case of operations involving real estate, the amount of the good must be informed based on the assessment report made by real estate trading market or by a specialized institution.

CHAPTER VI Simple Leasing/Equipment Rental/Vessel Freight

Article 30 - In order to obtain the record of the approved ROF of the operations of simple leasing, equipment rental and vessel freight, it is indispensable to indicate the number of the Import License - LI registered with the Foreign Trade Department - SECEX/DECEX.

Sole paragraph - The documents necessary for SECEX/DECEX's analysis shall be specified in the rulings of that Department.

Article 31 - The funds to be used as guarantee deposit shall be limited to the amount corresponding to three payments of leasing or rent.

Sole paragraph - The funds mentioned in this article must be deposited with a financial institution located overseas, in the name of the lessor, and shall be returned or cleared at the end of the operation.

Article 32 - Counting the payment term for these operations shall begin on the date of the Delivery and Acceptance Document or of shipment of the goods.

Sole paragraph - For operations in which the lessor is different from the supplier of goods, or in the cases of goods manufactured under custom-order, counting from the date of disbursement is accepted.

CHAPTER VII Import of goods without currency exchange coverage for the payment of capital of Brazilian companies

Article 33 - The ROF record for the import of goods without currency exchange coverage for the payment of capital of Brazilian companies shall cause the assumption of the commitment to incorporate the good to the company's assets and keeping it for at least 5 (five) years, allowing the inspection under the terms of the legislation currently in force.

Article 34 - Information regarding the investor's opinion and the invoice of the good, and other information requested on the transaction's screen must be informed to record the ROF of good imports without currency exchange coverage.

Article 35 - After the goods receive customs clearance, the interested party should request to record the investment with the Central Bank of Brazil, under the terms of the legislation currently in force.

CHAPTER VIII Transition Rules

Article 36 - As of January 02, 1997, the following procedures shall be used for the operations described herein:

I - direct funded imports with payment due 361 to 720 days:

a) for the cases that already received approval of the financial conditions through Import Document (*Guia de Importação* - GI) and which still do not have DI-paper, the record of the ROF must be made, with contents equal to the contents of the GI, including the *GI-approved ROF* ("*ROF com GI aprovada*"), using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). These ROFs shall receive automatic approval for the purpose of recording the electronic DI and clearance of the goods;

b) operations that already have the GI and the DI-paper shall receive regular Certificates of Registration by June 30, 1997;

II - direct funded imports with payment due after 720 days:

a) for the cases that already received the *Certificate of Authorization* (*Certificado de Autorização* - CA) and without GI and DI-paper, the ROF record must be made, with contents identical to the contents of the CA, and should include CA-issued ROF ("*ROF com CA emitido*") by using option "4 - Inclusion of Occurrence" (*Inclusão de Ocorrência*). Such ROFs shall be automatically approved for the purpose of recording the electronic DI and customs clearance;

b) for the cases with CA and GI, and without DI-paper, the ROF record must be made, with contents identical to the contents of the CA, and "CA-issued ROF" must be included by using option "4- Inclusion of Occurrence" (*Inclusão de Ocorrência*). Such ROFs shall be automatically approved for the purpose of recording the electronic DI and customs clearance;

c) for the cases with CA, GI and DI-paper, regular payment arrangements shall be issued by June 30, 1997;

III - funded imports supported by lines of credit with payment due after 361 to 720 days:

a) for the cases that already received approval of the financial conditions through Import Document (*Guia de Importação* - GI) and which still do not have DI-paper, the record of the ROF must be made, with contents equal to the contents of the GI, including the *GI-approved ROF* ("*ROF com GI aprovada*") using option "4-Inclusion of Occurrence" (*Inclusão de Ocorrência*). These ROFs shall receive automatic approval for the purpose of recording the electronic DI and clearance of the goods;

b) operations that already have the GI and the DI-paper shall receive regular Certificates of Registration by June 30, 1997;

IV - funded imports supported by lines of credit with payment due after 720 days:

a) for the cases with CA or a Letter from the Central Bank of Brazil authorizing the financial conditions of the line of credit, and without GI and DI-paper, the ROF record must be made, including contents equal to the contents of the CA or in the Authorization Letter, for the non-disbursed balance, and must include "CA- issued ROF" by using option "4-Inclusion of Occurrence" (*Inclusão de Ocorrência*). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs. A specific payment arrangement in the ROF shall be issued for each DI cleared;

b) for the cases with CA or a Letter from the Central Bank of Brazil authorizing the financial conditions of the line of credit, and without DI-paper, the ROF record must be made, including contents equal to the contents of the CA or in the Authorization Letter, for the non-disbursed balance, and must include "CA-issued ROF" by using option "4-Inclusion of Occurrence" (*Inclusão de Ocorrência*). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

c) for the cases with a CA or a Letter from the Central Bank of Brazil authorizing the financial conditions of the line, GI and DI-paper, regular payment arrangements shall be issued by June 30, 1997;

V - refinancing of the operations originally contracted with term of up to 360 days:

a) regular Certificates of Registration shall be issued by June 30, 1997 for operations that change their term to higher than 360 days;

b) the ROF record must be made for the operations that change their term to higher than 360 days;

VI - leasing operations;

a) for the cases with the Certificate of Registration - CR (*Certificado de Registro*) and without GI and DI-paper, the ROF record must be made, including contents equal to the contents of the CR, and must include "CR-issued ROF" by using option "4-Inclusion of Occurrence" (*Inclusão de Ocorrência*). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

b) for the cases with the CR and GI and without DI-paper, the ROF record must be made, including contents equal to the contents of the CR, and must include "CR-issued ROF" by using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

c) regular payment arrangements shall be issued by June 30, 1997 for the cases with CR, GI and DI-paper;

VII - simple leasing operations, equipment rental and vessel freight:

a) for the cases in which the Prior Authorization - AP (*Autorização Prévia*) is issued and without GI and DI-paper, the ROF record must be made, including contents equal to the contents of the AP, and must include "AP-issued ROF" by using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

b) for the cases with the AP and GI and without DI-paper, the ROF record must be made, including contents equal to the contents of the AP, and must include "AP-issued ROF" by using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

c) regular payment arrangements shall be issued by June 30, 1997 for the cases with AP, GI and DI-paper;

VIII - operations of imports of goods without exchange currency coverage for the payment of capital of Brazilian companies:

a) for the cases in which the *Certificate of Authorization - CA (Certificado de Autorização)* is issued and without GI and DI-paper, the ROF record must be made, including contents equal to the contents of the CA, and must include "CA-issued ROF" by using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

b) for the cases with the CA and GI and without DI-paper, the ROF record must be made, including contents equal to the contents of the CA, and must include "CA-issued ROF" by using option "4-Inclusion of Occurrence" (Inclusão de Ocorrência). Such ROFs shall be automatically approved for the purpose of the electronic DI and clearance of the goods with customs;

Article 37 - The number of the Certificate of Registration or the Certificate of Authorization that remain in force must be informed in the proper box in the currency exchange contract or in the docket of international transfer in national currency at the time of any financial transaction.

Article 38 - The originals of the Certificates of Registration of Leasing operations, Certificate of Authorization and Prior Authorizations included in the ROF must be immediately returned to the Regional Offices in charge of issuing them in order to be canceled.