



# BANCO CENTRAL DO BRASIL

CIRCULAR N° 3,689, DATED DECEMBER 16, 2013.

Provides for the foreign capital in Brazil and the Brazilian capital abroad in the scope of the *Banco Central do Brasil*.

The Board Directors of the *Banco Central do Brasil*, in its meeting held on December 12, 2013, based on the provisions of articles 10 and 11 of Law No. 4,595, dated December 31, 1964, in article 65, paragraph 2, of Law No. 9,069, dated June 29, 1995, Decree No. 55,762, dated February 17, 1965, Decree No. 93,872, dated December 23, 1986, in article 16, item III of Resolution No. 2,901, dated October 31, 2001, in article 6 of Resolution No. 3,312, dated August 31, 2005, in article 38 of Resolution No. 3,568, dated May 29, 2008, in article 10 of Resolution No. 3,844, dated March 23, 2010, in articles 2, paragraph 2, and 11 of Resolution No. 3,854, dated May 27, 2010, and in article 4 of Resolution No. 4,033, dated November 30, 2011, regarding the provisions of Law No. 4,131, dated September 3, 1962, and of Provisional Measure No. 2,224, dated September 4, 2001,

## RESOLVE:

### TITLE I BRAZILIAN CAPITAL ABROAD

#### CHAPTER I GENERAL PROVISIONS

Article 1. The financial institutions and other institutions authorized to operate in Brazil by the *Banco Central do Brasil*, authorized to operate in the foreign exchange market, may conduct, by the use of banks authorized to operate in the foreign exchange market, transfers abroad in national currency or foreign currency of interest to individuals or legal entities resident, domiciled or headquartered in Brazil, obeying the specific dispositions of each chapter for purposes of investment in the modalities dealt with in this title.

Sole Paragraph. The following provisions also apply to the transfers mentioned on the **caput**:

I - the transfers of funds for investments abroad by financial institutions and other institutions authorized to operate by the *Banco Central do Brasil* must comply specific regulation;

II - investment funds may perform transfers related to its investments abroad, to and from other countries, observed the regulations issued by *Comissão de Valores Mobiliários*<sup>1</sup> (CVM) and the foreign exchange rules issued by the *Banco Central do Brasil*;

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<sup>1</sup> Securities and Exchange Commission of Brazil.



## BANCO CENTRAL DO BRASIL

III - the transfers for investments abroad by Pension Funds must observe specific regulation.

Article 2. Payments and reciprocity in national currency referring to operations dealt with in this title must be accomplished through current account operations in Brazil on behalf of individuals or legal entities resident, domiciled or headquartered abroad, when such accounts are maintained and operated in accordance with the legislation and regulations currently in effect.

Article 3. Individuals and legal entities resident, domiciled or headquartered in Brazil that have assets of any nature, currency assets, goods and rights outside the national territory must declare such to *Banco Central do Brasil* in the manner, at intervals and under conditions to be determined by that institution.

Article 4. Funds transferred abroad as investments, as well as the earnings on such investments generated abroad, may be reinvested, including other assets, provided that the finalities permitted in the pertinent regulations be observed.

Article 5. Without detriment to the regulations in effect on this question, investors resident, domiciled or headquartered in Brazil must maintain the documents supporting remittances accomplished at the disposal of *Banco Central do Brasil* for a period of five years, observing all due legal formalities and perfect identification of all signatories.

Article 6. The operations dealt with this title must be carried out on the basis of documents that demonstrate the lawfulness and economic reasons of the operation, while observing all applicable tax-related aspects, in which case the intervening institution will be responsible for verifying full compliance with these conditions, maintaining the respective documents filed in the operation's dossier, as determined in current regulations.

### CHAPTER II CASH ABROAD

Article 7. Financial institutions and the other institutions authorized to operate by the *Banco Central do Brasil*, authorized to operate in the foreign exchange market may, through banks authorized to operate in the foreign exchange market, accomplish transfers abroad for individuals or legal entities, resident, domiciled or headquartered in Brazil for purposes of building up cash abroad.

Article 8. For purposes of the provisions in this Chapter, cash abroad means the holding of funds in an account by individuals or legal entities resident, domiciled or headquartered in Brazil in one's own name in a financial institution abroad.

Sole Paragraph. When such transfers are accomplished for purposes of building up cash abroad, the number of the account and the name of the depository institution abroad must be stated in *Outras especificações*<sup>2</sup> field on the foreign exchange contract.

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<sup>2</sup> Other specifications



## BANCO CENTRAL DO BRASIL

Article 9. The amount of foreign currency derived from Brazilian goods and services exported by natural and legal persons and kept abroad, can be used only for investments, financial investments or payment of the exporters own obligations. The granting of loans or mutual operations of any nature is forbidden.

Article 10. The banks authorized to operate in the foreign exchange market may invest their cash abroad, taken into account:

I - the institutions foreign exchange position;

II - the balance of the current account in foreign exchange kept in Brazil, being such account open and operating in compliance with the legislation and regulation in effect; and

III - other funds available abroad in currents accounts of the same institution, including those received as payment deriving from Brazilian exports.

Paragraph 1. The investments dealt with in the **caput** are limited to the following modalities:

I - bonds issued by the Brazilian government;

II - bonds issued by foreign governments;

III - bonds issued by or of responsibility of financial institution; and

IV - time deposits in a financial institution.

Paragraph 2. Regarding the investments mentioned in this article, the banks must manage adequately the assets, the liquidity and the risks related to its operations, as well as meet its commitments and attend customers' interests.

### CHAPTER III BRAZILIAN INVESTMENTS ABROAD

#### Section I Direct Investment

Article 11. For the purposes of the provision in this section, Brazilian direct investments abroad are understood as direct or indirect equity interest of individuals or legal entities resident, domiciled or headquartered in Brazil, in companies constituted outside Brazil.

Article 12. The financial institutions and other institutions authorized to operate in Brazil by the *Banco Central do Brasil*, authorized to operate in the foreign exchange market, may transfer funds, through banks authorized to operate in the foreign exchange market, for purposes of settlement of offices outside Brazil and, directly or indirectly, acquire equity interest abroad according to its willingness, in compliance with the specific regulation on the matter.



## **BANCO CENTRAL DO BRASIL**

Article 13. When investments are accomplished through international stocks swaps or other assets, simultaneous foreign exchange operations involving the inflow of foreign investments to Brazil and outflow of Brazilian investments abroad will be required without issue of payment orders with immediate and simultaneous settlement in a single bank.

Paragraph 1. International shares swaps, including or other assets, are understood as payment-in-full of the capital of a Brazilian company effected by individuals or legal entities resident, domiciled or headquartered abroad, through dation or exchange of shares held in a foreign company headquartered abroad, or payment-in-full of the capital of a foreign company headquartered abroad, effected through dation or exchanges of stock in a Brazilian company by individuals or legal entities resident, domiciled or headquartered in Brazil.

Paragraph 2. In the case foreseen in paragraph 1, operations that may be characterized as reciprocal equity interests between domestic and foreign companies are not permitted.

Paragraph 3. The value of the simultaneous foreign exchange operations related to international shares or other assets swaps are limited to the value of the asset valuation report elaborated by a company recognized by the CVM, calculated reciprocally through the same method.

Article 14. Aside from the documents that corroborates the lawfulness and economic reasons of the operation, legal entities that effect transfers with the objective of constituting direct investments abroad in financial institutions must present a declaration to the intervening institution that they do not perform financial activities in Brazil, are not controlled by an institution authorized to operate by the *Banco Central do Brasil* and that they do not have direct or indirect control of a National Financial System member institution, which has investments abroad that must comply with the criteria foreseen in specific regulations.

### **Section II Portfolio Investments**

Article 15. Transfers in domestic or foreign currency to and from abroad related to investments abroad by investment funds must comply with the limits and other regulations issued by the CVM according to its prerogatives.

### **CHAPTER IV HEDGE**

Article 16. This chapter deals with hedge operations negotiated with financial institutions abroad at stock exchanges or the over-the-counter market, in accordance with the terms of Resolution No. 3,312, dated August 31, 2005.

Article 17. The bank intervening in the foreign exchange operation formalized for purposes of payment or reciprocity 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:



# BANCO CENTRAL DO BRASIL

- I - of the documents submitted by the client; or
- II - of client's qualification in terms of profile, performance and the financial capacity.

## TITLE II FOREIGN CAPITAL IN BRAZIL

### CHAPTER I GENERAL PROVISION

~~Article 18. This title deals with the rules and procedures relating to the register of foreign capital in Brazil, according to Resolution No. 3,844, of March 23, 2010; applies to foreign capital entered or existing in Brazil, in cash or in goods, and to the financial transactions with abroad resulting there from, relating to the following operations:~~

Article 18. This title deals with the rules and procedures relating to the register of foreign capital in Brazil, in accordance with Resolutions Nos. 3,844, dated March 23, 2010, and 4,373, dated September 29, 2014, and to the resulting international financial transactions, related to the following operations: ([Included by Circular No. 3,752, dated 3/27/2015.](#))

- I - foreign direct investment;
- II - foreign credit, including foreign financial leasing, foreign loans gathered directly or through placement of bonds, exports' advanced reciprocity proceeds and foreign financing;
- III - royalties, technical services and similar, foreign operating leasing, renting and freightage;
- ~~IV — guarantees provided by international organizations in internal credit operations; and~~
- IV - guarantees provided by international organizations in internal credit operations; ([Included by Circular No. 3,752, dated 3/27/2015.](#))
- ~~V — capital in domestic currency, in accordance with Law 11,371, dated November 28, 2006.~~
- V - capital in domestic currency, in accordance with Law No. 11,371, dated November 28, 2006; and ([Included by Circular No. 3,752, dated 3/27/2015.](#))
- VI - non-resident investments in financial and capital markets in Brazil, included the ones accomplished through the mechanism of Depositary Receipts (DR). ([Included by Circular No. 3,752, dated 3/27/2015.](#))



## BANCO CENTRAL DO BRASIL

Article 19. The register dealt with in this title is accomplished in a declaratory and electronically form in the corresponding modules of the *Registro Declaratório Eletrônico*<sup>3</sup> (RDE), with the *Sistema de Informações do Banco Central*<sup>4</sup> - Sisbacen in the foreign currency in which the funds actually entered into Brazil or, in situations in accordance with the laws in force, in domestic currency.

~~Article 20. The RDE code and the updating of the information contained in the register are requirements for any fund transactions with abroad.~~

Article 20. The RDE code and the updating of the information contained in the register are requirements for any fund transactions with abroad. ([In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.](#))

~~Article 21. The conditions previous to the register with the RDE modules are the following:~~

~~I—the accreditation with Sisbacen according to the instructions on the page of the Banco Central do Brasil on the Internet ([www.beb.gov.br](http://www.beb.gov.br)); and~~

~~II—the provision of information of the parties, residents and non-residents involved in the operation and their proxies in the Registry of Physical Persons and Legal Entities—International Capital (Cademp) through the use of PEMP500 and PEMP600 transactions of Sisbacen, as per instructions contained in "Cademp" Manual do Declarante", available at [www.beb.gov.br](http://www.beb.gov.br) » Câmbio e Capitais Estrangeiros » Manuais.~~

Article 21. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 22. The register information of the holders of registers and their proxies must be kept updated in the Cademp system, directly by the user or through a request to the Department of Economics (Depec).~~

Article 22. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Article 22-A. To the purposes of the registry referred to in this Circular, are subject to the simultaneous foreign exchange operations or international transfers in reals, regardless of prior authorization by the *Banco Central do Brasil*:

I - the conversion of assets in Brazil which belongs to non-Brazilian residents into foreign capital able to be registered with the *Banco Central do Brasil* referred to in this title;

II - the transfer between modalities of foreign capital registered in *Banco Central do Brasil*, including investments in the financial and capital markets dealt by Annexes I and II of Resolution No. 4,373, of 2014; and

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<sup>3</sup> Electronic Declaratory Register

<sup>4</sup> Central Bank's Information System

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Circular No. 3,689, dated 12/16/2013. (This is not an official translation. For information purposes only.)



# BANCO CENTRAL DO BRASIL

~~III — the renewal, renegotiation and assumption of the operating obligation of external loan, subject to register with the Banco Central do Brasil, raised directly or through the issuance of bonds in the international market.~~

III - the renegotiation and assumption of the operation of external loan, subject to register with the *Banco Central do Brasil*, in accordance with article 55 of this Circular. ([In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.](#))

Paragraph 1. Exemption of the provisions of item II, the transfer of non-resident investor's application in Brazil in the financial and capital markets in Brazil, in accordance with Regulation Annex I of Resolution No. 4,373, of 2014, for the investment of a non-resident investor through the DR mechanism, pursuant to Regulation Annex II of Resolution No. 4,373, of 2014.

Paragraph 2. In the case of assumption referred to in item III, the simultaneous foreign exchange operations or international transfers in reals shall be carried out by the transferee of the obligation.

([Article 22-A included by Circular No. 3,752, dated 27/3/2015.](#))

## CHAPTER II FOREIGN DIRECT INVESTMENT

### Section I General Provision

Article 23. This chapter provides for the register of foreign direct investment in Brazil, in domestic or foreign currency, accomplished in a declaratory and electronically form with the *Banco Central do Brasil*, based in Regulation in Annex I to Resolution No. 3,844, of 2010.

Article 24. The register must be preceded by authorization of Departamento de Organização do Sistema Financeiro<sup>5</sup> (Deorf) for investment in share capital of financial institutions and other institutions authorized to operate by it.

~~Article 25. The provisions of this chapter shall not apply to investments in financial and capital markets, from individuals and corporations, funds and other collective investment entities resident, domiciled or headquartered abroad, whose register, accomplished in a declaratory and electronic form follows the provisions of specific regulations and must be registered in the RDE Portfolio module.~~

Article 25. ([Revoked by Circular No. 3,752, dated 27/3/2015.](#))

~~Article 26. The following are precedent conditions to the register in the IED module of the RDE:~~

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<sup>5</sup> Department of Financial System Organization





## BANCO CENTRAL DO BRASIL

Article 26. The accreditation in Sisbacen, according to instructions contained in the webpage of *Banco Central do Brasil* (<http://www.bcb.gov.br/>), is a previous condition to the register on Investimento Estrangeiro Direto<sup>6</sup> (IED) module of the RDE. (In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.)

~~I — the accreditation with Sisbacen, according to instructions contained on the webpage of the Banco Central do Brasil ([www.bcb.gov.br](http://www.bcb.gov.br/)); and~~

I - (Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.)

~~II — the provision of information, of the receiving company, foreign investors and their proxies in the Registry of Physical Persons and Legal Entities — International Capital (Cademp) through the use of the PEMP500 and PEMP600 transactions of Sisbacen, as per instructions contained in Cademp Manual do Declarante, available at [www.bcb.gov.br](http://www.bcb.gov.br) » Câmbio e Capitais Estrangeiros » Manuais.~~

II - (Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.)

Sole Paragraph. The accreditation in Sisbacen, according to instructions contained in the webpage of *Banco Central do Brasil*, is also a condition to the mandatory, in Brasil, of non-resident investor's can access the system for consultation. (included, from 1/30/2017, by Circular No. 3,814, dated 12/7/2016)

~~Article 27. — The register is accomplished using the PRDE600 transaction of Sisbacen, being assigned a RDE-IED number, unique identifier for each pair consisting of foreign investors and their respective receiving company in Brazil, under which they are declared: the initial investment, its mutations, update of the net equity accounts of the receiving company and subsequent allocations, as per instructions contained in RDE-IED Manual do Declarantes, available at [www.bcb.gov.br](http://www.bcb.gov.br) » Câmbio e Capitais Estrangeiros » Manuais.~~

Article 27. The register is performed in the IED module of the RDE of Sisbacen, on the webpage of *Banco Central do Brasil*, being assigned RDE-IED code, a unique identifier for each pair constituted by foreign investors and by the respective receiving company in Brazil, by the record of: the initial investment, the updates of stockholders' equity, paid-in capital of the receiving company and the percentage of paid-in capital for each foreign investor and subsequent transactions, as well as the economic and financial statements. (In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.)

~~Article 28. — The conversions of assets in foreign direct investment and transfers to other modalities of application of foreign capital in Brazil for the modality object of this chapter and vice versa are subject to the simultaneous operations of foreign exchange or international transfers in reals, without issue of payment orders, regardless of prior authorization of Banco Central do Brasil.~~

Article 28. (Revoked by Circular No. 3,752, dated 27/3/2015.)

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<sup>6</sup> Foreign Direct Investment

Circular No. 3,689, dated 12/16/2013. (This is not an official translation. For information purposes only.)





## BANCO CENTRAL DO BRASIL

~~Article 29. For any financial transaction with abroad, the RDE-IED number must be informed on the foreign exchange contract or on the register of the transaction in accounts domiciled abroad.~~

Article 29. For any financial movement abroad, the code RDE-IED shall be in the foreign exchange contract or in the register of the transaction in accounts held by domiciled abroad. [\(In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.\)](#)

~~Article 30. It is mandatory to register in the IED module of the RDE all corporate or contractual events which change the terms of foreign investors shareholding.~~

Article 30. [\(Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.\)](#)

~~Article 31. The register envisaged in this chapter is presented in the consolidated statement of investment of the IED module of the RDE, where the registered shares will be allocated separately on specific screens, according to the legal basis of the register.~~

Article 31. [\(Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.\)](#)

~~Article 32. The payment, with funds held abroad, of profits and dividends, interest on equity capital and return on capital does not exempt the company's obligation to accomplish the corresponding registers in the IED module of the RDE, also indicating the allocation of resources for reception abroad.~~

Article 32. The payment, with funds held abroad, of profits and dividends, interest on shareholders' equity and return on capital does not exempt the company's obligation to accomplish the corresponding registers in the IED module of the RDE. [\(In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.\)](#)

### Section II Register in IED module of RDE

[\(Renamed section, from 1/30/2017, by Circular No. 3.814, dated 12/7/2016.\)](#)

~~Article 33. Register shall be accomplished on the investment item of the IED module of the RDE the participation of non-resident investor in the capital of the receiving company, paid up or acquired in the form of the legislation in effect, as well as the capital of a foreign company authorized to operate in Brazil, with values arising from:~~

Article 33. Must be registered in the IED module of the RDE the participation of non-resident investor in the share capital of the receiving company, paid up or acquired in accordance of the legislation in effect, as well as the capital of a foreign company authorized to operate in Brazil. [\(In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.\)](#)

~~I - inflows of currency and goods to Brazil;~~

I - [\(Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.\)](#)



## BANCO CENTRAL DO BRASIL

~~II—conversion into investment;~~

II - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~III—exchange of stock or shares;~~

III - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~IV—conference of stocks or shares;~~

IV - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~V—income earned by a non-resident investor in receiving companies; and~~

V - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~VI—alienation to nationals, reduction of capital for restitution to a shareholder or net collection resulting from the liquidation of the receiving company.~~

VI - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Article 33-A. The following transactions are automatically registered in the IED module of the RDE, on the basis of the information contained in the foreign exchange contract or international transfer in reals, in accordance with the provisions of Circular No. 3,691, dated December 16, 2013:

I - currency inflows;

II - foreign direct investment conversion;

III - transfers between modalities;

IV - international stock swap;

V - transfer of profits and dividends abroad, interest on shareholders' equity and of return of capital.

([Article 33-A included, from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Article 33-B. The following transactions must be stated, in order to fulfill the registry in the IED module of RDE:

I - goods inflows, tangible or intangible, in Brazil, destined to the capitalization of the receiving company;

II - corporate restructuring, understood as the merger, incorporation or split of companies in Brazil, in which at least one of them has foreign capital participation registered in *Banco Central do Brasil*;



## BANCO CENTRAL DO BRASIL

III – exchange of shares and quotas in Brazil, understood as the exchange of shares in Brazilian companies, with at least one foreign investment recipient registered in *Banco Central do Brasil*, accomplished between resident and non-resident investors, or between non-resident investors.

IV – shares or quotas swap in Brazil, understood as the dation of shares or quotas paid-in-full from the capital of a domestic company, held by the non-resident investor, to the payment in-full of the subscribed capital in another receiving company in Brazil;

V - reinvestment, understood as the capitalization of profits, dividends, interest on shareholders' equity and profit reserves in the receiving company in which they were originated;

VI – distribution of profits/dividends, interest on shareholders' equity, alienation of equity interest, refund of capital and the net assets resulting from liquidation that are used for reinvestments in other receiving companies in Brazil.

VII - distribution of profits/dividends, interest on shareholders' equity, alienation of equity interest, refund of capital and the net assets resulting from liquidation that are used for payments in Brazil or directly abroad.

Paragraph 1. The register dealt with the **caput** must be accomplished within thirty days, counted from the date of the occurrence of the events dealt with in items I to VII.

Paragraph 2. The reinvestment is registered in the currency of Brazil to which the income could have been transferred, calculated from the amount reported in reals.

Paragraph 3. In the case of item I, the value of the counterpart in domestic currency shall be that recorded in the accounting of the receiving company, having as reference the value in the cleared *Declaração de Importação*<sup>7</sup> (DI) or the invoice.

§ 4º In case of item V, the value of the counterparty in foreign currency is calculated by the system by applying the PTAX closing price, for sale, from the date of payment of the capital or of the acquisition of equity interest.

[\(Article 33-B included, from 1/30/2017, by Circular No. 3.814, dated 12/7/2016.\)](#)

~~Article 34. It should also be registered on the investment item of the IED module of the RDE, through a statement, the foreign capital invested in companies in Brazil, not yet registered and not otherwise subject to register with Banco Central do Brasil, pursuant to the provisions of chapter IV of this title.~~

Article 34. Foreign capital invested in a company in Brazil, not yet registered and not subject to another form of register with the *Banco Central do Brasil*, is also registered in the IED module of the RDE, in accordance with Chapter IV of this Title. [\(Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.\)](#)

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<sup>7</sup> Declaration of import



## BANCO CENTRAL DO BRASIL

Article 34-A. Information on the amounts of the shareholders' equity and the paid-in capital of the receiving company, as well as the capital paid in by each foreign investor in the registry, must be kept up to date. ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Paragraph 1. The total amount of paid-in capital in the receiving enterprise for each investor must be updated by discriminating the legal basis of each information registered ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Paragraph 2 The updating of the information referred to in the **caput** must be accomplished: ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

I - within a period of thirty days, counted from the date of occurrence of an event that changes the shareholding of the foreign investor; and ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~II - Annually, until January 31, referring to the base date of December 31 of the previous year, with the exception of those referring to the companies referred to in Article 34-B. ([Included, as of 1/30/2017, by Circular 3,814, dated 1/12/2016.](#))~~

II - annually, up to March 31, referring to the base date of December 31 of the previous year, except for the companies referred to in article 34-B ([In force from 1/30/2017, by Circular No. 3,822, dated 1/20/2017.](#))

Paragraph 3. If it coincides with a day on which there is no expedient at the *Banco Central do Brasil*, the final term of the fixed periods will be extended until the first subsequent business day. ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Article 34-B. Companies receiving foreign direct investment with assets or shareholders' equity equal or greater than R\$ 250,000,000.00 (two hundred and fifty million reais) must provide four (4) economic-financial statements per year, observing the following schedule: ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~I - concerning the reference date of March 31, it must be accomplished by May 31; ([Included, as of 1/30/2017, by Circular 3,814, dated 12/7/2016.](#))~~

I - concerning the reference date of March 31, it must be accomplished by June 30; ([In force from 1/30/2017, by Circular No. 3,822, dated 1/20/2017.](#))

~~II - concerning the reference date of 30 de junho, it must be accomplished by August 31; ([Included, as of 1/30/2017, by Circular 3,814, dated 12/7/2016.](#))~~

II - concerning the reference date of June 30, it must be accomplished by September 30; ([In force from 1/30/2017, by Circular No. 3,822, dated 1/20/2017.](#))

~~III - concerning the reference date of September 30, it must be accomplished by November 30; ([Included, as of 1/30/2017, by Circular 3,814, dated 12/7/2016.](#))~~

III - concerning the reference date of September 30, it must be accomplished by December 31; ([In force from 1/30/2017, by Circular No. 3,822, dated 1/20/2017.](#))



# BANCO CENTRAL DO BRASIL

~~IV—concerning the reference date of 31 de dezembro, it must be accomplished by February 28 of the subsequent year. (Included, as of 1/30/2017, by Circular 3,814, dated 12/7/2016.)~~

IV - concerning the reference date of December 31, it must be accomplished by March 31 of the subsequent year. ([In force from 1/30/2017, by Circular No. 3,822, dated 1/20/2017.](#))

Sole Paragraph. If it coincides with a day on which there is no expedient at the *Banco Central do Brasil*, the final term of the fixed periods will be extended until the first subsequent business day. ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Subsection I Investment in currency and goods

~~Article 35. The register of investment in currency is accomplished based on the inflow of resources to Brazil through foreign exchange transaction or international transfer in reals according to the provisions on Circular No. 3,691, of December 16, 2013.~~

Article 35. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 36. Foreign direct investment through the conference of a tangible or intangible asset, is characterized by the capitalization of the corresponding value of the assets owned by non-residents, imported without obligation of payment, to be registered in the Financial Operations Register—ROF module, and the register of such investment is accomplished in the currency in the corresponding ROF, pursuant to the provisions of chapter III, section II, subsection V of this title.~~

Article 36. Foreign direct investment by means of conference of goods, tangible or intangible assets, is characterized by the capitalization of the value corresponding to property of non-residents, imported without obligation of payment, and shall, in the registry, to be informed of the DI number, when applicable, or invoice or equivalent document that characterizes the import of intangible good. ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Paragraph 1. The register of the investment described in the caput shall be accomplished within thirty days from the date of customs clearance of the tangible good asset.~~

Paragraph 1. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Paragraph 2. The corresponding value of the domestic currency, in the cases mentioned in the caput is calculated by applying the average exchange rate available on option 5 of the PTAX800 transaction of Sisbacen, valid for the day of the respective accounting fact.~~

Paragraph 2. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Sole Paragraph. It does not characterize intangible good, for the purpose of the transfer of technology subject to register at the Instituto Nacional da Propriedade Industrial<sup>8</sup> (INPI). ([Included, as of 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

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<sup>8</sup> National Industrial Property Institute



# BANCO CENTRAL DO BRASIL

## Subsection II Conversion into Investment

~~Article 37. Conversion into foreign direct investment, for the purposes of this subsection, means the operation by which rights and claims which could generate financial transfers abroad, as well as property belonging to nonresidents, are used for acquisition, payment of participation or absorption of losses in a company in Brazil.~~

Article 37. Conversion into direct foreign investment is understood as the operation by which rights and credits that can generate financial transfers abroad, as well as assets belonging to non-residents, are used for the acquisition or payment-in-full of equity interest in a company in Brazil. ([In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 38. In the register of the conversions provided for in this subsection, the following stages shall be complied with:~~

Article 38. In the registry of conversions, the following stages shall be complied with: ([In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.](#))

I - writing off, in the ROF module of the RDE, of the amount to be converted, in the cases of registered operations;

II - simultaneous foreign exchange operations, without issue of payment orders or simultaneous entries of the international transfer in reals, through the use of foreign exchange codes of nature corresponding to the value to be converted and to the foreign direct investment, as well as the code of a specific group, and

~~III - inclusion, in the IED module of the RDE, of the corresponding operation.~~

III - ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Subsection III Income earned by non-resident investor in receiving companies in Brazil

~~Article 39. Capitalizations and acquisitions using income earned and not capitalized by non-resident investor in receiving companies in Brazil, from the distribution of profits or the payment of interest on equity are registered under the investment item of the IED module of the RDE.~~

~~Paragraph 1. The register of reinvestment of such earnings in any company in Brazil must be preceded by the completion of entry, with such allocation, in the register of origin of earned earnings.~~



# BANCO CENTRAL DO BRASIL

~~Paragraph 2. The corresponding value in foreign currency of the register envisaged in this subsection is calculated by applying the average exchange rate available on option 5 of the PTAX800 transaction of Sisbacen, valid for the day of pay up of the capital or the acquisition of the participation.~~

Article 39. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Subsection IV

### **Alienation to nationals, reduction of capital for refund to shareholder or net assets resulting from liquidation of a receiving company**

~~Article 40. Capitalizations and acquisitions with use of resources from the alienation to nationals, of reduction of capital for reimbursement to a partner or net collection resulting from the liquidation of a receiving company are registered under the investment item of IED module of the RDE.~~

~~Paragraph 1. The register of reinvestment of such earnings in any company in Brazil must be preceded by the completion of entry, with such allocation, in the register of origin of the events mentioned in caput.~~

~~Paragraph 2. The corresponding value in foreign currency of the register envisaged in this article is calculated by applying the average exchange rate available on option 5 of the PTAX800 transaction of Sisbacen, valid for the day of pay up of the capital or the acquisition of the participation.~~

Article 40. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Section III Reinvestment Register

~~Article 41. Capitalizations of profits, dividends, interest on equity and profit reserves in the receiving company in which they were produced are registered under the reinvestment item of the FDI module of the RDE.~~

~~Paragraph 1. The capitalization of capital and revaluation reserves does not change the registry value, reflecting only on investors participation.~~

~~Paragraph 2. The register of reinvestment is accomplished in the currency of Brazil to which income could have been remitted, or in reals, observed the portion of the investment registered in domestic currency.~~

~~Paragraph 3. The corresponding value in foreign currency is calculated by applying the average exchange rate available on option 5 of the PTAX800 transaction of Sisbacen, valid for the day of the capitalization of profits, interest on equity and profit reserves.~~

Article 41. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Section IV





# BANCO CENTRAL DO BRASIL

## Corporate restructuring, share exchanges and swaps

~~Article 42. For purposes of this section it is understood as:~~

~~I—Corporate reorganization: the merger, incorporation or split of companies in Brazil, in which at least one of them has the participation of foreign capital registered with Banco Central do Brasil;~~

~~II—Exchange of shares or quotas in Brazil: the exchange of equity interests in Brazilian companies, with at least one receiving company of foreign direct investment registered with Banco Central do Brasil, carried out between resident and non-resident investors, or between non-resident investors;~~

~~III—Conference of shares or quotas in Brazil: the surrender of paid-up shares or quotas from the capital of a company in Brazil, held by non-resident investor, for payment of capital subscribed by it to another receiving company in Brazil.~~

Article 42. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

Article 43. The register of mergers, incorporations or splits provided for in this section shall be accomplished in compliance with the provisions of corporate law.

~~Article 44. In the register of incorporation, the profits reserves and the accumulated profits, included in the equity balance sheet of the incorporated company, accomplished for purposes of incorporation, are consigned under the reinvestment item of the respective registers in the RDE-IED of the incorporating company.~~

~~Sole paragraph. The value of the reinvestment of each foreign investor as per caput for purposes of register, be proportionate to the paid-up capital of each foreign partner in the incorporated company, subject to paragraph 3 of article 41.~~

Article 44. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 45. The register of the conference the exchange of shares or quotas in Brazil, involving foreign investments registered in the IED module of the RDE involves the transfer of amounts registered in the proportion of the participation traded.~~

Article 45. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## Section V

### Remittances abroad of profits and dividends, interest on equity capital and return of capital

~~Article 46. This section provides for the register in the IED module of the RDE, of remittances abroad of profits and dividends, interest on equity capital and return of capital, related to foreign investment in Brazil.~~

Article 46. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))



# BANCO CENTRAL DO BRASIL

~~Article 47. The remittance of profits to foreign investors, dividends and interest on capital should be preceded by the register of their distribution in the IED module of the RDE.~~

Article 47. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 48. The remittance to a foreign investor regarding the return of investment by reducing capital for the restitution to a shareholder, or by alienation to nationals, shall be preceded by the respective register in the IED module of the RDE.~~

Article 48. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## CHAPTER III FINANCIAL OPERATIONS

### Section I General Provisions

Article 49. The register of foreign capital dealt with in this chapter shall be accomplished in the ROF module of the RDE of Sisbacen, comprising the situations mentioned in the specific sections.

Article 50. The conditions previous to the register in the ROF module of the RDE are:

I - accreditation in Sisbacen according to the instructions on the webpage of *Banco Central do Brasil* (<http://www.bcb.gov.br>); and

II – at he provision of information of the individual or legal persons involved in the operation in the *Cadastro de Pessoas Físicas e Jurídicas - Capitais Internacionais*<sup>9</sup> (Cademp) through the use of PEMP500 and PEMP600 commands of Sisbacen, as per instructions contained in the *Cademp - Manual do Declarante*<sup>10</sup>, available at <http://www.bcb.gov.br>» *Câmbio e Capitais Estrangeiros*<sup>11</sup>» *Manuais*<sup>12</sup>.

Article 51. The register of each transaction on the ROF module of the RDE should be provided prior to the inflow of funds, the customs clearance or the provision of services in Brazil, by the borrower or his proxy. ([In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.](#))

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<sup>9</sup> International Capital Natural and Legal Entities Registry

<sup>10</sup> Declarant's Guide

<sup>11</sup> Foreign Exchange and International Capital

<sup>12</sup> Guides



## BANCO CENTRAL DO BRASIL

Sole Paragraph. The register should be provided through the following Sisbacen commands, as per instructions contained in the RDE-ROF *Manual do Declarante*, available at [www.bcb.gov.br](http://www.bcb.gov.br) » *Câmbio e Capitais Estrangeiros* » *Manuais*:

I - PCEX370, when performed by the borrower or its proxy, and such transaction may also be accessed through the *Rede Serpro*<sup>13</sup>, in which case the prior register is required with the *Secretaria da Receita Federal do Brasil*<sup>14</sup> (RFB);

II - PCEX570, when accomplished through the bank network, at the request and on behalf of the borrower;

(Sole paragraph included as of 7/2/2018, by Circular No. 3,883, dated 3/7/2018.)

~~Article 52. The RDE ROF code, the "concluído"<sup>15</sup> status of the register process and the updating of the information in the register are requirements for any flows of funds to abroad.~~

Article 52. The RDE-ROF code, the "*elaborado*"<sup>16</sup> or "*concluído*"<sup>17</sup> status of the register process and the updating of the information in the register are requirements for any flows of funds to abroad. (In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.)

~~Article 53. After the inflow of funds, customs clearance or the rendering of the service, the borrower must accomplish the register of the payment schedule in the RDE module of the ROF, essential for remittances of principal and interest or to carry out the shipments of merchandise, as appropriate.~~

Article 53. After the inflow of funds, customs clearance or the rendering of the service, the borrower must accomplish the register of the payment schedule ("*Esquema*" or "*Cronograma*") in the RDE module of the ROF, essential for remittances of principal and interest or to carry out the shipments of merchandise, as appropriate. (In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.)

~~Article 54. The transactions must be registered in the currency and on the conditions contracted and separate records should be provided for transactions involving different currencies or different financial conditions, which should be linked to each other.~~

Article 54. The register in the ROF module of the RDE must replicate the conditions contracted, provided that:

I – in foreign loans operations, the inflows are automatically registered in the currencies indicated in the foreign exchange operations or international transfers in reals, regardless of the currency contracted in the credit operation, which must be informed as currency of denomination;

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<sup>13</sup> Serpro Network

<sup>14</sup> Secretariat of the Federal Revenue of Brazil

<sup>15</sup> Accomplished

<sup>16</sup> Completed

<sup>17</sup> Accomplished



## BANCO CENTRAL DO BRASIL

II – other operations must be registered in the currency and on the conditions contracted and separate records should be provided for transactions involving different currencies or different financial conditions, which should be linked to each other.

[\(Article 54 in force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.\)](#)

~~Article 55. Once the inflow of funds, customs clearance or the rendering of the service occur, the changes of maturity date and financial conditions (renewal, refinancing or renegotiation) and borrower (assumption) are the responsibility of the original borrower, who shall update them in the RDE module of the ROF, by means of the mechanism provided for this purpose, writing off in the original register and making a new record.~~

Article 55. Once the inflow of funds, customs clearance or the rendering of the service occur, the changes of the maturity date or the financial conditions (renegotiation) and the borrower (assumption) are the responsibility of the original borrower, who shall update them timely in the ROF module of the RDE, by means of the mechanism provided for this purpose, writing off in the original register and making a new record. [\(In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.\)](#)

Article 56. It is granted the early settlement of foreign obligations relating to the transactions referred to in this chapter.

Article 57. The validity of each ROF is sixty days, after which, if there is no entry of merchandise, funds or the contracting of services, it will be automatically cancelled except in the cases specified in this chapter.

Article 58. The transfer of funds abroad for payment by third parties of amounts related to a registered operation depends on the authorization from Depec, it being granted to the co-responsible or to a third party determined by a court decision solely on cases where there is:

I - composition of debt or bankruptcy of the importer, provided that the co-responsible is either a natural or legal person established in Brazil;

II - default by the importer at the bank that issued the letter of credit for the transaction;

III - judicial judgment ordering the payment in Brazil to third parties.

Article 59. The register in the ROF module of the RDE does not exempt the requirement of compliance with other legal requirements for the modality of the contracted operation.

Article 60. The payment of foreign obligations relating to the operation mentioned in this chapter, accomplished directly abroad, must be registered in the ROF module of the RDE through specific writing off event.



# BANCO CENTRAL DO BRASIL

## Section II Foreign Credits

Article 61. This section provides for the register of loans granted to individual or legal persons resident, domiciled or headquartered in Brazil by individual or legal persons resident, domiciled or headquartered abroad, based on Regulation Annex II to Resolution No. 3,844, of 2010, in the following modes:

I - foreign loans, including through the issuance of securities;

II – advanced reciprocity of export proceeds operations, with payment schedule greater than 360 (three hundred and sixty) days;

III - foreign financing, with payment schedule greater than 360 (three hundred and sixty) days;

IV - foreign financial leasing - leasing, with payment schedule greater than 360 (three hundred and sixty) days.

~~Article 62. This section also provided for the register of the import of merchandise, without the obligation of payment to non-resident, for paying up share capital of Brazilian companies.~~

Article 62. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 63. To accomplish the registry and obtain the respective RDE-ROF code, the following must be informed:~~

~~I— all titleholders of the operation (debtor, creditors, agents, guarantors);~~

~~II— the financial conditions and the maturity of principal, interest and charges;~~

~~III— the manifestation by the creditor or lessee on the terms of the transaction, and the guarantor, if any;~~

~~IV— other requirements requested when registering the transaction in the ROF module of RDE.~~

Article 63. To accomplish the registry and obtain the respective RDE-ROF code, the following must be informed:

I - all titleholders of the operation (debtor, creditors, agents, guarantors);

II - the financial conditions and the maturity of principal and interest;

III - the manifestation by the creditor or lessee on the terms of the transaction, and the guarantor, if any;



## BANCO CENTRAL DO BRASIL

IV - other requirements requested when registering the transaction in the ROF module of RDE.

[\(Article 63 in force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.\)](#)

Article 64. The contracting and renegotiation of credit operations in any foreign currency is free, except for transactions in which the borrowers or guarantors are bodies or agencies of the federal, states, Federal District and municipalities administration, which must first be accredited by Depec, according to the specific regulations.

~~Article 65. The requirements listed on sub items "a", and "b" of article 1 of the Resolution No. 2,515, of June 29, 1998:~~

~~I— funds should be directed to the refinancing of their own financial obligations already contracted, with preference for the most expensive and with shorter deadline and, while not used in the settlement of such commitments, shall remain in earmarked account to be opened in the federal financial institution who will care for the releasing to occur only for its purposes; and~~

~~II— the total amount of obligations incurred for the purpose of the preceding sub item shall be the object of provision, through monthly deposits in the earmarked account to be opened in a federal financial institution in order to guarantee the payment of the principal and interest on the foreign loan, divided by the number of months covered by the total time of payment.~~

Article 65. [\(Revoked by Circular No. 3,844, dated 8/30/2017.\)](#)

~~Article 66. The register of the transaction described in article 1 of the Resolution No. 2,515, of 1998, will only be completed after the inclusion in the ROF module of the RDE, of the following events:~~

~~I— manifestation of the *Secretaria do Tesouro Nacional*<sup>18</sup> (STN);~~

~~II— accreditation by the *Banco Central do Brasil*;~~

~~III— order of the *Ministro da Fazenda*<sup>19</sup> for operations in which the Republic is included as debtor or guarantor;~~

~~IV— resolution of the Federal Senate, if any.~~

Article 66. [\(Revoked by Circular No. 3,844, dated 8/30/2017.\)](#)

Article 67. The foreign credit received by corporations in Brazil, not yet registered and not otherwise subject to register with the *Banco Central do Brasil* must be registered pursuant to the provisions of chapter IV of this title.

### Subsection I

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<sup>18</sup> National Treasury Secretariat

<sup>19</sup> Minister of Finance



# BANCO CENTRAL DO BRASIL

## Foreign Loan

~~Article 68. This subsection provides for the register in the ROF module of the RDE, of operations of foreign loan contracted directly or through the issuing of securities on the international market, regardless of the maturity of the operation.~~

Article 68. This subsection provides for the register in the ROF module of the RDE, of operations of foreign loan contracted directly or through the issuing of securities on the international market, regardless of the maturity of the operation, as well as acquisition, in Brazil, of private placement debentures. ([In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.](#))

Article 68-A. The following does not apply to the registers dealt with by this subsection:

I – the item II of art. 50, for residents, domiciled or headquartered in Brazil;

II – the sole paragraph of art. 51;

III – art. 57; and

IV – item III of art. 63.

([Article 68-A included as of 7/2/2018, by Circular No. 3,883, dated 3/7/2018.](#))

~~Article 69. In the case of foreign loan promoted by a public sector entity by issuing securities at the international market, the issuer must obtain authorization from STN in accordance with the legislation in force, prior to the commencement of negotiations with financial institutions abroad.~~

~~Paragraph 1. After obtaining the authorization of STN for issuance of the securities, pursuant to **caput** of this subsection, the issuer must register the transaction in the ROF module of RDE for accreditation by the *Banco Central do Brasil*, as observed in article 64.~~

~~Paragraph 2. The issuer may not grant a mandate to the winning agent of the bidding prior to the accreditation by the *Banco Central do Brasil*.~~

Article 69. ([Revoked by Circular No. 3,844, dated 8/30/2017.](#))

~~Article 70. After the completion of the ROF, even prior to the register of payment arrangement, it is possible to accomplish remittances abroad in payment of incidental costs.~~

Article 70. After the completion of the ROF, it is possible to accomplish remittances abroad, including of anticipated nature, in payment of interests and incidental costs. ([In force from 7/2/2018, included by Circular No. 3,883, dated 3/7/2018.](#))





## **BANCO CENTRAL DO BRASIL**

Article 70-A. After the first inflow of funds, the register will turn to “*Efetivado*”<sup>20</sup> status, and only alterations regarding the following will be possible:

- I – payment schedule (“*Cronograma*”);
- II – debtor change due to legal succession and other societal reorganizations or judicial order;
- III – creditor change due to debt negotiation between non residents;
- IV – contact data; and
- V – additional information.

[\(Article 70-A included as of 7/2/2018, by Circular No. 3,883, dated 3/7/2018.\)](#)

### **Subsection II**

#### **Advance receipt of export, with payment schedule over 360 days**

Article 71. This subsection provides for the register in the ROF module of the RDE, of the operations of advance receipt of export of goods or services, with more than 360 (three hundred sixty) days prior to the date of shipment of the goods or of rendering of the service.

Article 72. The register of the operation in accordance with this subsection requires the effective inflow of funds into Brazil.

Article 73. The operation of advance receipt of export, for purposes of the provisions in this subsection, may be conducted by the importer or any corporate entity abroad, including financial institutions.

Article 74. The inflow mentioned in this subsection may occur through an international transfer in reals, including payment orders coming from abroad in domestic currency or through foreign exchange contracting settled prior to shipment of the goods or of rendering of the service.

Article 75. The following procedures apply, depending on the form of inflow of funds into Brazil:

I - contracting of a foreign exchange transaction: the transaction must be contracted for immediate settlement, using the export exchange contract, group code 52, stating the ROF code in the appropriate field;

II - international transfer in reals, including payment orders in domestic currency: the operation must be performed by indicating the group code 52 on screen record, stating the ROF code in the appropriate field; and

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<sup>20</sup> Concluded.



## **BANCO CENTRAL DO BRASIL**

III - advanced settlement and within the statutory deadline of the export exchange contract contracted for future settlement, classified in groups 50 and 51: the operation must be performed by adjusting for group code 52, indicating the ROF code in the appropriate field.

Article 76. Upon completion of the ROF, even prior to the register of the payment schedule, remittances may be accomplished abroad in payment for incidental costs.

### **Subsection III External Financing**

Article 77. This subsection provides for the register in the ROF module of the RDE of foreign financing transaction with a payment schedule greater than 360 (three hundred and sixty) days, or its refinancing to the importer, of tangible or intangible assets:

I - directly by the supplier or other financial institution abroad;

II - by banks authorized to operate in the Brazilian exchange market, with funds from the credit lines obtained abroad.

Article 78. This subsection also provides for the register, in the ROF module of the RDE, of the financing or refinancing operations, for non-resident, concerning:

I - rental, including simple foreign leasing and chartering;

II - provision of technology;

III - technical assistance services;

IV - license to use/assignment of the trademark;

V - operating license/assignment of the patent;

VI - franchise;

VII - other modes, in addition to those listed in items "II" through "IV" of this article, which will be endorsed by *Instituto Nacional da Propriedade Industrial*<sup>21</sup> (INPI);

VIII - complementary technical services and/or expenses related to the transactions listed in items "II" to "IV" of this article not subject to register by the INPI.

Article 79. Each disbursement of the credit line on the outside represents a distinct form of credit, which must be registered in the RDE ROF module by the holder authorized bank, acting as debtor individually by the importer.

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<sup>21</sup> National Institute of Industrial Property

Circular No. 3,689, dated 12/16/2013. (This is not an official translation. For information purposes only.)



## **BANCO CENTRAL DO BRASIL**

Article 80. The operations mentioned in this subsection shall be registered in the currency of the domicile or headquarters of the title owner not residing in Brazil, in the currency of origin of merchandise or financing, or in another currency as agreed between the parties.

Article 81. After the completion of the ROF, even prior to the register of the payment arrangement, remittances can be accomplished abroad in respect of:

I - anticipated value, paid prior to shipment of merchandise;

II - cash value, paid at the time of clearance of merchandise;

III - interest arising in its grace period;

IV - incidental costs.

Article 82. The register of import of intangible assets that, by the standards of RFB, are not subject to the *Declaração de Importação*<sup>22</sup> (DI), depends on the existence of commercial invoice and the term of delivery and acceptance, to be included in the ROF module of the RDE.

Article 83. The register of financing of import of technology or franchise and related services depends on the register of operation in the modality mentioned in subsection II of section IV of this chapter, as well as the respective payment schedule.

Article 84. To register the payment arrangement, besides the DI cleared or the receipt of the service rendered or the contract of exchange or international transfer in reals proving the inflow of funds, are required by the system information on:

I - date and details of the signed contract or other formal document setting out the financial terms of the transaction;

II - details of specific events for each mode of operation.

Article 85. Operations originally contracted with deadlines for payment of less than 360 (three hundred and sixty) days and that, when being refinanced, reach a deadline for payment of more than 360 (three hundred and sixty) days, must be registered in the ROF module of the RDE in the form of this subsection prior to the rectification of DI.

### **Subsection IV Foreign Financing Leasing**

Article 86. This subsection provides for the register in the ROF module of the RDE, of the operations of foreign financial leasing, with payment schedule of more than 360 (three hundred and sixty) days, and their renegotiations between an entity domiciled abroad and the lessee of the property in Brazil.

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<sup>22</sup> Import Declaration



## BANCO CENTRAL DO BRASIL

Article 87. Upon completion of the ROF, even prior to the register of the payment schedule, remittances may be accomplished abroad in payment for warranty deposit or incidental costs.

Article 88. To register the payment arrangement, besides the DI cleared or, in case of sale and leaseback, of the contract of exchange or the international transfer in reals proving the inflow of funds, information are required by the system on:

I - date and specifications of the signed contract or other formal document setting out the financial terms of the transaction; and

II - data of specific events for each modality of operation.

### Subsection V

#### **Import of goods without the obligation of payment to a non-resident, intended for the payment in full of capital**

~~Article 89. This subsection provides for the register in the ROF module of the RDE, of the operations of importing assets without the obligation to pay to non-resident, for the integralization of capital of Brazilian companies.~~

Article 89. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 90. The importation of assets mentioned in this subsection is initially registered in the ROF module of the RDE and then in the IED module of the RDE, as foreign direct investment in the form of chapter III, section IV, subsection I of this title.~~

Article 90. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 91. The register in the ROF module of the RDE should be accomplished in the appropriate modality with linking in the DI cleared, when appropriate, or by invoice or equivalent document that characterizes the importation of intangible.~~

Article 91. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

~~Article 92. An intangible asset, for purposes of the register mentioned in this subsection, does not include the transfer of technology subject to annotation of the INPI, mentioned in chapter III, section IV, subsection I of this title.~~

Article 92. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

### Section III

#### **Guarantees provided by international organizations**



## **BANCO CENTRAL DO BRASIL**

Article 93. This section provides for the register of guarantees on credit operations, contracted in Brazil, between legal entities domiciled or headquartered in Brazil by international organizations in which Brazil is a member, which shall be accomplished in declaratory form and electronically with the *Banco Central do Brasil*, based on Regulation Annex IV to Resolution No. 3,844, of 2010.

Article 94. The guarantees shall be registered by the debtor of the domestic credit operation by the time of the signature of the contract of guarantee, and shall appear on the register:

I - the parties of the security operation and the guaranteed credit operation;

II - the amount in domestic currency and the financial conditions and the term of the portion of the credit operation in Brazil supported by the guarantee;

III - fees and commissions under the guarantee obtained abroad; and

IV - other requirements requested by the system.

Article 95. Remittances abroad for the payment of fees and commissions under the guarantee may be accomplished by the debtor or the creditor of the internal credit operation.

Article 96. The debtor of the domestic credit operation shall inform, in the respective ROF, the expiration date that corresponds to the inflow in every inflow of funds in Brazil.

Article 97. For purposes of this section, the beneficiary of the funds entering Brazil for the compliance with the guarantee is the creditor of the internal operation which, on the date of transfer by the foreign guarantor, is properly identified in the ROF.

Article 98. The provisions and procedures contained in this chapter shall apply to operations included this section, when applicable.

Article 99. The payment of foreign obligation regarding the operation in this section, accomplished directly abroad, must be registered in ROF module of the RDE, through specific writing off event.

### **Section IV**

#### **Royalties, technical services and the like, foreign operating leasing, renting and freightage**

Article 100. This section provides for the register with the *Banco Central do Brasil*, based in Regulation Annex III to Resolution No. 3,844, of 2010, of the following contracts, when agreed between an individual or legal person resident, domiciled or headquartered in Brazil and an individual or legal person resident, domiciled or headquartered abroad:

I - use or assignement of patents, industry or commerce trademarks, supply of technology or other contracts of the same kind, for purposes of financial transfers abroad as payment of royalties;



## **BANCO CENTRAL DO BRASIL**

II - rendering of technical services and the like;

III - foreign operational leasing with a payment schedule greater than 360 (three hundred and sixty) days;

IV - rent, including foreign single leasing and freightage, with a payment schedule greater than 360 (three hundred and sixty) days.

### **Subsection I Royalties, technical services and alike**

Article 101. This subsection provides for register in the ROF module of the RDE, of the operations agreed between an individual or legal person resident, domiciled or headquartered in Brazil, and an individual or legal person resident, domiciled or headquartered abroad, concerning:

I - license of use or cession of trademark;

II - license of exploitation or cession of patent;

III - provision of technology;

IV - technical assistance services;

V - other modalities which will be endorsed by the INPI; and

VI - complementary technical services and expenses related to the transactions listed in items "I" to "IV" of this article not subject to register by the INPI.

Sole Paragraph. To accomplish the registry and obtain the respective RDE-ROF code, the following must be informed. ([In force from 7/1/2017, included by Circular No. 3,837, dated 6/27/2017.](#))

I - all titleholders of the operation (lessee, owner or the like); ([In force from 7/1/2017, included by Circular No. 3,837, dated 6/27/2017.](#))

II - number of the certificate of register or registration granted by INPI; ([In force from 7/1/2017 by Circular No. 3,844, dated 6/27/2017.](#))

III - the amount, schedule and conditions of payment; and ([In force from 7/1/2017, included by Circular No. 3,837, dated 6/27/2017.](#))

IV - other requirements requested when registering the transaction in the ROF module of the RDE. ([In force from 7/1/2017, included by Circular No. 3,837, dated 6/27/2017.](#))



## **BANCO CENTRAL DO BRASIL**

~~Article 102. The operations mentioned in this subsection are automatically submitted for review by the INPI, whose approval depends on the register of the payment scheme, which is a requirement for transferring funds abroad.~~

~~Sole Paragraph. To accomplish the register and acquire the respective RDE-ROF code, the following should be informed:~~

~~I— all titleholders of the operation (lessee, owner or the like);~~

~~II— the amount, schedule and conditions of payment; and~~

~~III— other requirements requested when registering the transaction in the ROF module of the RDE.~~

Article 102. ([Revoked from 7/1/2017, by Circular No. 3,837, dated 6/27/2017.](#))

### **Subsection II Foreign operating leasing, renting and freightage**

Article 103. This subsection provides for the register in the ROF module of the RDE, of the operations agreed between an individual or legal person resident, domiciled or headquartered in Brazil and an individual or legal person resident, domiciled or headquartered abroad, relating to foreign operating Leasing, equipment rental, including simple foreign Leasing and freightage, with a payment schedule greater than 360 (three hundred and sixty) days, as well as their extensions.

Article 104. To accomplish the register and acquire the respective RDE-ROF code, the following must be informed:

I - all titleholders of the operation (lessee, lessor or the like);

II - the amount, schedule and conditions of payment; and

III - other requirements requested when registering the transaction in the ROF module of the RDE.

Sole Paragraph. After completing the register, even prior to the register payment arrangement, remittances can be accomplished abroad of amounts related to the security deposit and incidental costs.

Article 105. Operations originally agreed with payment schedules smaller than 360 (three hundred and sixty) days and that, when renegotiated, reach a payment schedule greater than 360 (three hundred and sixty) days and that, must be registered in ROF, in accordance with this subsection, prior to the DI's adjustment.

## **CHAPTER IV**





# BANCO CENTRAL DO BRASIL

## DOMESTIC CURRENCY CAPITAL - LAW No. 11,371, OF 2006.

Article 106. This chapter provides for the register with the *Banco Central do Brasil*, in local currency, of foreign capital mentioned in article 5 of Law No. 11,371, of 2006, performed in declaratory form and electronically, in accordance with Regulation Annex V to Resolution No. 3,844, of 2010.

Sole Paragraph. It is included in foreign capital stated in the **caput** are the investments and foreign loans and other capital funds derived from those capitals produced in accordance with the terms of applicable legislation.

Article 107. In the case of investments in financial institutions, in other institutions authorized to operate by the *Banco Central do Brasil* and in consortium management companies, the register shall be preceded by authorization from the Deorf.

~~Article 108. The instructions for the declarant to accomplish the register with the system are included in the topic Capital in national currency Law No. 11,371, of 2006, available on the Banco Central do Brasil page on the internet ([www.bcb.gov.br](http://www.bcb.gov.br)), in the section Câmbio e capitais estrangeiros — Manuais do registro Declaratório Eletrônico — RDE-IED — Manual do declarante and RDE-ROF — Manual do declarante.~~

Article 108. ([Revoked from 1/30/2017, by Circular No. 3,814, dated 12/7/2016.](#))

## CHAPTER V FOREIGN INVESTMENT IN FINANCIAL AND CAPITAL MARKETS

### Section I General Provisions

Article 108-A. This chapter provides for the register of investments in local or foreign currency, in the financial and capital markets in Brazil, including through the DR mechanism as provided in the respective sections, based on Resolution No. 4,373, of 2014.

Article 108-B. The register of investment described in this chapter, observed the legal and regulatory provisions in force, must be accomplished in the Portfolio module of the RDE by the responsible proxy appointed in each section, comprehending investments, redemptions, income, capital gains, transfers and other transactions resulting from investments dealt with in this chapter.

Article 108-C. The conditions previous to the register in the Portfolio module of the RDE are the following:

I - the accreditation with Sisbacen in accordance with the instructions on the webpage of *Banco Central do Brasil* ([www.bcb.gov.br](http://www.bcb.gov.br)); and

II - the record of information of the parties, residents and non-residents involved in the operation and their proxies, where appropriate, in the Cademp, through the use of PEMP500



## BANCO CENTRAL DO BRASIL

and PEMP600 command of Sisbacen, as per instructions contained in "Cademp – *Manual do Declarante*", available in: <http://www.bcb.gov.br>>> *Câmbio e Capitais Internacionais*<sup>23</sup> >> *Manuais do registro declaratório eletrônico*.<sup>24</sup>

Article 108-D. For any financial transactions abroad, the RDE Portfolio code must be informed on the contract of foreign exchange or on the register of the international transfer in reals.

Article 108-E. The payment of profits and dividends or interest on shareholders' equity with funds held abroad does not exempt the obligation of the proxy or custodian to update the corresponding registers in the Portfolio module of the RDE.

### Section II

#### Financial application by non-resident investors in financial and capital markets

Article 108-F. This section provides for the investments in the financial and capital markets of foreign funds entered in Brazil, by non-resident investors, including funds from national currency accounts held by individual or legal entities resident, domiciled or headquartered abroad, based in Regulation in Annex I to Resolution No. 4,373, of 2014.

Article 108-G. The non-resident investor shall, prior the commencement of its operations, constitute one or more proxies in Brazil, and instruct him to accomplish and maintain updated the register of the investment with the *Banco Central do Brasil*.

Article 108-H. The register in the Portfolio module of the RDE is accomplished using the PRDE530 transaction of SISBACEN by each proxy constituted by the non-resident investor.

Article 108-I. The RDE code and the updating of the information contained in the register are requirements for any fund transactions with abroad.

Article 108-J. The institutions mentioned in items I and II of article 4 of Regulation in Annex I to Resolution No. 4,373, of 2014, shall transmit to *Banco Central do Brasil* the information referred to in article 6 of the aforementioned Regulation through the STA application, by the fifth business day of the month.

~~Sole Paragraph. The information mentioned in the caput shall be sent until March 31<sup>st</sup>, 2016, and Departamento de Monitoramento do Sistema Financeiro<sup>25</sup> (Desig) and Departamento Econômico<sup>26</sup> (Depec) may, together, dispense this provision at any time, in order to rationalize the flow of information.~~

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<sup>23</sup> Foreign Exchange and International Capital

<sup>24</sup> Electronic Declaratory Register Guide

<sup>25</sup> Department of Financial System Monitoring.

<sup>26</sup> Economic Department.



## **BANCO CENTRAL DO BRASIL**

Sole Paragraph. The information mentioned in the **caput** shall be sent until March 31<sup>st</sup>, 2017, and *Banco Central do Brasil* may dispense this provision at any time, in order to rationalize the flow of information. ([In force from 1/30/2017, included by Circular No. 3,814, dated 12/7/2016.](#))

Article 108-K. The non-resident investor, its proxy and the institutions mentioned in items I and II of article 4 of Regulation in Annex I to Resolution No. 4373, of 2014, shall provide to *Banco Central do Brasil*, when requested, documents that distinguish, per participant, the performed transactions, the portfolio investments, the custody transactions or any other additional information requested.

Article 108-L. The remittances of capital abroad are limited to the values of the net equity.

Article 108-M. The transfer of foreign investment produced in accordance with the terms of this section to the DR mechanism must be informed by the proxy of non-resident investor on the date of its occurrence using the PRDE530 command of SISBACEN.

Article 108-N. The investment transfer accomplished between non-resident investors in accordance with CVM regulations must be informed by the proxies of non-resident investors on the day of its occurrence, using the PRDE530 command of SISBACEN.

Article 108-O. Incorporation in portfolio, by a non-resident, of Brazilian Depository Receipt (BDR) issued by the depository institution, backed by security owned by the same non-resident investor and deposited at the institution responsible for the custody of the BDR program, must be accomplished through simultaneous foreign exchange operations or international transfer in reals using group code 46, as follows:

I - foreign exchange contracts of inflow classified as investment in financial and capital markets in Brasil in accordance with this section ; and

II- exchange contracts of remittance classified as BDR sale by non-resident investor.

Article 108-P. The investments registered in the Portfolio module of the RDE of Sisbacen, due to investments on the basis of Resolutions Nos. 2,247 and 2,248, both dated February 8, 1996, shall be transferred, without necessity of simultaneous foreign exchange operations, to the register referred to in this section within the period specified in sole paragraph of article 8 of Regulation Annex I to Resolution No. 4373, of 2014.

### **Section III**

#### **Financial application by non-resident investors through the Depository Receipts (DR) mechanism**



## **BANCO CENTRAL DO BRASIL**

Article 108-Q. This section provides for investments of non-residents in Brazil through the DR mechanism on the basis of Regulation in Annex II to Resolution No. 4373, of 2014.

Article 108-R. Requests for permission of the financial institutions headquartered in Brazil for DR programs backed by security owned by the same financial institutions should be forwarded to Deorf.

Article 108-S. Are subject to register in the Portfolio module of the RDE, foreign funds entered based on this section, investments, redemptions, income, capital gains, transfers and other transactions resulting from investments deal with in this section, be bound the issuing company , the amount and the underlying asset of the DR program.

Article 108-T. The foreign capital register referred to in the previous article must be accomplished by the custodian institution on behalf of the depository institution.

Article 108-U. The initial register must be accomplished for each DR program, prior to the first inflow of funds in Brazil or the alienation of the DR abroad, using the following transactions of SISBACEN:

I - PRDE500 to register the modality of investment and program; and

II - PRDE510 for generating the electronic statement register.

Article 108-V. If there is no inflow in Brazil of value of the alienation on the basis of Regulation in Annex II to Resolution No. 4373, of 2014, until the fifth business day counted from the date of the alienation, the custodian institution must update the investment register in the the Portfolio module of the RDE, stating the DR values held abroad, by entry in the PRDE510 transaction of Sisbacen.

Article 108-W. The custodian institution must, monthly, by the fifth business day of the month, provide information on the portfolio as at the last business day of the preceding month for the net equity of program, using the PRDE510 transaction of Sisbacen.

Article 108-X. Within five working days of the date of each movement of the escrow account, the custodian institution will arrange the updating of foreign capital register.

Article 108-Y. The registered value in another modality of investment resulting from transfers mentioned items II and III of article 7 of Resolution No. 4373, of 2014, and the article 108 - M of this Circular should be based on the market price, or in his absence, on the updated value of the assets or securities .

### **TITLE III FINAL PROVISIONS**

Article 109. This Circular takes effects on February 3, 2014.



# **BANCO CENTRAL DO BRASIL**

Luiz Edson Feltrim  
Deputy Governor for Regulation, substitute