

RESOLUTION 3568

Makes provisions on the foreign exchange market and makes other provisions

THE CENTRAL BANK OF BRAZIL, according to art. 9 of Law 4595, dated December 31, 1964, makes public that the THE NATIONAL MONETARY COUNCIL, in its meeting held on May 29, 2008, based on art. 4, sections V, VIII and XXXI, of said Law, Laws No. 8880, dated May 27, 1994, 9069, dated June 29, 1995, 10192, dated February 14, 2001, in Decree-Laws No. 857, dated September 11, 1969, 1060, dated October 21, 1969, and in view of the provisions in the Laws No. 4131, dated September 3, 1962, 7766, dated May 11, 1989, 9613, dated March 3, 1998, and 11371, dated 28 November 2006, Decree-Law No. 9025, dated February 27, 1946, and Decrees No. 23258, dated October 19, 1933, 42820, dated December 16, 1957, and 55762, dated February 17, 1965,

RESOLVED:

Article 1. The Brazilian foreign exchange market includes operations of purchase and sale of foreign currency and transactions in gold as foreign exchange instrument, performed with institutions authorized by Central Bank of Brazil to operate in the foreign exchange market, as well as the domestic currency operations between residents, domiciled or headquartered in Brazil and residents, domiciled or headquartered abroad.

Sole paragraph. The Brazilian foreign exchange market includes operations related to receipts, payments and transfers to and from abroad by the utilization of cards of international use and international payments companies, as well as transactions relating to international postal financial transfers, including postal money orders and international postal reimbursements.

CHAPTER I

On the authorizations for the performance of operations in the foreign exchange market

Article 2. The authorizations for the performance of operations in the foreign exchange market may be granted by Central Bank of Brazil to multiple banks, commercial banks, savings banks, investment banks, development banks, foreign exchange banks, credit, financing and investment societies, securities and stocks brokerage societies, securities and stocks dealers societies and foreign exchange brokerage societies.

Article 3. The agents allowed to operate in the foreign exchange market may perform the following operations:

I - banks, except the development banks, and Caixa Economica Federal: all operations of the foreign exchange market;

II – development banks, credit, financing and investment societies
specific operations authorized by the Central Bank of Brazil;

III - securities and stocks brokerage societies, securities and stocks dealers societies and foreign exchange brokerage societies:

a) (Revoked)

b) (Revoked)

c) foreign exchange operations contracted for settlement within two working days up to the limit of US\$100,000.00 (one hundred thousand United States dollars) or its equivalent value in other currencies;

d) interbank market operations, arbitrage operations in Brazil and arbitrage with other countries through a bank authorized to operate in the foreign exchange market;

IV - tourism agencies: purchases and sales of foreign currency in cash, checks and travelers checks related to international travels, subject to the provisions of Art. 4A

V – (Revoked)

Article 4. (Revoked)

Article 4-A: The authorization to operate in the foreign exchange market granted to tourism agencies and tourism lodging facilities which final owners have presented a specific authorization request to the Central Bank of Brazil up to November 30, 2009, duly supported by documents numbers 1 to 7 and 10 to 18 of Annex VII of Circular No. 3,179, of February 26, 2003, aiming to establish and operate an institution of National Financial System capable to operate in the foreign exchange market is subject to the following provisions, without prejudice to later compliance with other instruction requirements for the conduct of proceedings, according to current regulation :

I - if the request is granted, the authorization to the travel agency or to tourism lodging facilities expires concurrently with the start date of the activities of the new authorized institution, respecting the deadline set in the business plan, and;

II - in case of filing or rejection of the application, the authorization granted to the travel agency or to tourism lodging facilities will lose validity thirty (30) days after the decision of the Central Bank of Brazil.;

Sole paragraph. Other authorizations granted to travel agencies and the tourist lodging facilities to operate in the foreign exchange market expired on December 31, 2009

Article 5. In order to be authorized to operate in the foreign exchange market, the financial institution shall:

I - present project, under the terms set by Central Bank of Brazil, indicating at least the basic operational objectives and actions designed to ensure compliance with foreign exchange regulations and to prevent and repress crimes typified in Law 9613 of March 3 1998;

II – designate a director responsible for the operations related to the foreign exchange market.

Article 6. The Central Bank of Brazil will set the criteria for receipts, payments and transfers to and from abroad by cards of international use and international payments companies and for conducting international postal financial transfers, including through international postal money orders and refunds.

Article 7. The Central Bank of Brazil, with regard to the authorizations granted in the form of this chapter, may reasonably:

I – revoke or suspend them temporarily by reason of convenience and opportunity;

II - terminate them due to irregularities in the administrative process, or suspend them for precaution, as provided by law;

III - cancel them because of non-performance by an institution of a foreign exchange transaction for a period exceeding one hundred and eighty days.

CHAPTER II

On the operations carried though the foreign exchange market

Article 8. Individuals and legal entities can purchase and sell foreign currency or perform international transfers in Brazilian currency, of any nature, without limitation of amount, regarding that the counterparty in the operation is an agent authorized to operate in the foreign exchange market, subject to the legality of the transaction, based on economic fundamentals and responsibilities defined in the related documentation.

First paragraph. The provisions in the caput include purchases and sales of foreign currency by individuals or legal entities resident, domiciled or headquartered in Brazil, to build up cash from abroad and its return.

Second paragraph. Financial transfers relating to investments abroad by financial institutions and other institutions authorized to operate by the Central Bank of Brazil must comply with specific regulations.

Third paragraph. Investment funds may make transfers from and to abroad related to their applications outside Brazil, in compliance with the regulations issued by the Securities and Exchange Commission of Brazil and the foreign exchange rules issued by Central Bank of Brazil.

Fourth paragraph. Financial transfers related to investments abroad by private pension entities must comply with specific regulations.

Fifth paragraph. Subject to the customer identification duty mentioned in art. 18 of this Resolution, the presentation of documentation regarding underlying legal transactions as well as a copy of custody of customer identification documents can be waived on purchase and sale of foreign currency up to US\$ 3,000.00 (three thousand United States dollars) or its equivalent in other currencies.

Article 9. The operations in the foreign exchange market shall:

I – comply with the orientations and procedures established in the specific legislation/regulation;

II – be recorded in the Information System of Central Bank of Brazil (Sisbacen); and

III – comply with the operational provisions defined by the Central Bank of Brazil.

First Paragraph. The Central Bank of Brazil may define simplified forms to record operations of foreign currency purchases and sells of up to three thousand United States dollars (US\$3,000.00) or its equivalent in other currencies.

Second Paragraph. A foreign exchange transaction may be carried out through Automated Teller Machine (ATM), observed that the customer should be identified as specified by the Central Bank of Brazil

Article 10. Foreign exchange operations, which instrument of formalization and classification follows the model set by the Central Bank of Brazil, may be contracted for settlement within a maximum of one thousand and five hundred days from the date of their contracting, observing:

I – the specific deadlines established by the Central Bank of Brazil, according to the nature of the foreign exchange operation; and

II - the criteria established by the Central Bank of Brazil about situations where, due to exceptional circumstances, it is admitted the amendment of the terms of the foreign exchange contract, including with respect to the extension of deadlines for shipping and settlement.

Article 11. Foreign exchange operations are freely cancelled by consensus between the parties or written-off from the foreign exchange position of the institutions authorized to operate in the foreign exchange market, according to the procedures established by the Central Bank of Brazil.

Sole Paragraph. This rule does not apply to simplified foreign exchange operations and interbank operations for which are forbidden the cancellation, write-off, amendment or early settlement.

Article 12. Amendment to the data relating to the identities of the buyer or seller, the value in Brazilian currency, the foreign currency code and the foreign exchange rate is not allowed in the foreign exchange contract.

Article 13. In the sale of foreign currency, the equivalent in -domestic currency should be debit from buyer's deposit account or paid by check issued by him/her, nominative to the authorized dealer, crossed and nonendorsable.

Article 14. In the purchase of foreign currency, the equivalent in domestic currency should be credit to seller's deposit account or delivered by check, issued by agent authorized to

operate in the foreign exchange market, to the order of the seller of foreign currency, crossed and non-endorsable.

Article 15. The purchase or sale of foreign currency equivalent in domestic currency not exceeding ten thousand reais (R\$10,000.00) per customer are excluded from the provisions of articles 13 and 14 of this resolution.

Article 16. Agents authorized to operate in the foreign exchange market referred to in Part I of Art. 3 of this resolution may perform purchases and sales operations of foreign currency with a banking institution abroad, against banknotes of Brazilian currency received from or sent abroad, in compliance with the regulation in force.

First paragraph - The foreign exchange operations under this article shall be made in one sole branch of the institution authorized to operate in the foreign exchange market, previously reported to Central Bank of Brazil by the director responsible for operations related to foreign exchange market.

Second paragraph - One copy of the declaration of entrance or declaration of exit of the resources in the country, provided in the form of regulations in force, must be in the dossier of the respective foreign exchange operation.

Art. 16-A Upon receipt of export revenue from goods or services, it should be noted that:

I - Brazilian exporters of goods or services can maintain abroad the totality of their export revenues;

II - the export proceeds inflow can be managed in Brazilian or foreign currency, before or after the shipment of goods or the rendering of services, and foreign exchange contracts can be concluded for immediate or future settlement, subject to the regulation of the Central Bank of Brazil;

III - the foreign exchange contracts related to exports are settled by the delivery of foreign currency or by the presentation of a document that represents it to the bank with which they have been concluded;

IV - the receipt of the export revenue must occur:

a) through credit to exporter's account maintained in a bank abroad;

b) by agreement between the parties, through credit to an account of a bank authorized to operate in the Brazilian exchange market, according to current regulation;

c) through international transfer in Brazilian currency, including payment orders in domestic currency from abroad, included in the regulations in force;

d) upon delivery of the currency in cash to the bank authorized to deal in foreign exchange market, in order to be set by the Central Bank of Brazil;

e) through cards of international use issued abroad, international money order or other instrument specific conditions laid down in the regulations of the Central Bank of Brazil;

V – A person other than the exporter can contract foreign exchange operation as well as execute international transfers in Brazilian currency in the following cases:

- a) mergers, split-up or incorporation of companies and other cases of contractual succession provided by law;
- b) court decision;
- c) other situations provided by the Central Bank of Brazil.

VI – it is sealed instruction for payment or credit abroad, to third parties in any export value, except in the case of agent commission and parcel of another nature due to a third party resident or domiciled abroad, provided for in the document that supports the shipment of the goods or the rendering of the service, or in the case of exports driven by intermediate abroad, in the form and limits set by the Central Bank of Brazil;

VII - the value arising from the advance receipt of export, for which there has not been its shipment of goods or the rendering of services can:

- a) be converted by the exporter in direct capital investment or in cash loan, through previous agreement of the payer abroad, and registered with the Central Bank of Brazil, according to Law No. 4,131, of September 3, 1962, and related regulations; or
- b) return to abroad, subject to tax regulations applicable to resources not intended for export;

VIII - the value in domestic currency of the financial charge established by Article No. 12 of Law no. 7738, of March 9, 1989, as amended by Law No. 9813, of August 23, 1999, must be collected by the bank that purchases the foreign currency, subject to the procedures established by the Central Bank of Brazil;

IX - regarding the export of services, the granting of advancements on foreign exchange contracts (ACC) and advancements on draft presentations (ACE) is restricted to the services defined by the Ministry of Development, Industry and Foreign Trade;

X - financial institutions and other institutions authorized to operate in the country by the Central Bank of Brazil, authorized to operate in the foreign exchange market, which have signed export foreign exchange contracts must transmit through electronic mechanism regulated by the Central Bank of Brazil and for exclusive use of the Secretary of the Federal Revenue, by the 15th day of the subsequent month to the corresponding foreign exchange contracts settlements, the following data:

- a) identification of the foreign currency seller: name and registration number of the company in the National Register of Legal Entities (CNPJ) or name and registration number of the natural person in the Natural Persons Registry (CPF);
- b) total amount of the settlement by foreign currency and by operation nature, consolidated in a monthly basis;

c) total amount of the equivalent value in Brazilian currency of the settlements referred in paragraph "b" of this item, consolidated in a monthly basis; and

d) name and registration number with the CNPJ of the institution authorized to operate in the foreign exchange market that has purchased the foreign currency.

CHAPTER III

On the obligations of the agents authorized to operate in the foreign exchange market.

Article 17. The agents authorized to operate in the exchange market, companies responsible for financial transfers through cards of international use, international payments companies and companies engaged in international postal transfers shall ensure compliance with the laws and exchange regulations.

Article 18. The agents authorized to operate in the foreign exchange market shall observe the rules for the perfect identification of their customers, and to verify the responsibilities of the parties and the legality of the transactions.

CHAPTER IV

On the foreign exchange rate

Article 19. The foreign exchange rate is freely agreed between the agents authorized to deal in the foreign exchange market or between them and their customers.

Article 20. The foreign exchange rate agreed upon in the operations for immediate or future settlement should reflect only the price of the currency traded for the trade date of the foreign exchange operation, being permitted in the transactions for future settlement, the stipulation of prize or bonus, as defined by Central Bank of Brazil.

Article 21. The foreign exchange rate to term settlement operations reflects the price of foreign currency to the date of settlement, subject to the other characteristics set by Central Bank of Brazil.

Article 22. The agents authorized to deal in foreign exchange are subject to the penalties prescribed in the legislation and regulations in force for the purchase or sale of foreign currency at rates incompatible with those practiced by the market or which may constitute foreign exchange evasion, artificial formation or price manipulation.

CHAPTER V

On the accounts in Brazilian currency held by residents, domiciled and headquartered abroad and on the international transfers in reais.

Article 23. Credits from or debits to a deposit account in domestic currency held by individuals or legal entities resident, domiciled or headquartered abroad, kept in Brazil in a

bank authorized to operate in the foreign exchange market are considered as international transfers in reais.

Article 24. International transfers in reais shall comply, where applicable, with the same criteria, provisions and requirements established for the buying and selling of foreign currency and the standards in specific legislation.

Article 25. It is compulsory the registration on Sisbacen of deposits accounts in domestic currency held in Brazil by individuals or legal entities resident, domiciled or headquartered abroad.

Article 26. The transactions occurred in a deposit account of individuals or legal entities resident, domiciled or headquartered abroad, equal to or greater than ten thousand reais (R\$10,000.00), must be recorded in Sisbacen, as prescribed by Central Bank of Brazil.

Article 27 Use the deposit account of individuals or legal entities resident, domiciled or located abroad for the conduct of international transfer in reais of interest of third parties it is forbidden.

First paragraph. The prohibition established on this article also applies to accounts held by financial institutions domiciled or headquartered abroad held with financial institutions authorized to operate in the foreign exchange market in Brazil.

Second paragraph. The prohibition contained in the caput does not apply to debts in foreign bank accounts when destined to fulfill payment orders in Brazilian currency from abroad by institution authorized to operate in the foreign exchange market.

Article 28. Can be freely converted into foreign currency for remittance abroad, exclusively at a bank authorized to operate in the foreign exchange market, the balances of own resources existing in a deposit account for individuals or legal entities resident, domiciled or headquartered abroad.

Article 29. Debits and credits from and to deposit accounts held by embassies, consular offices or representatives of international organizations accredited by the Brazilian government are exempted from documentary evidence and the statement of reasons for the transfer.

Article 30. The operations in deposit account held by an embassy, consular office or representative of an international organization accredited by the Brazilian government, including in amounts exceeding ten thousand reais (R\$10,000.00), can be made in cash or by any payment instrument.

CHAPTER VI

General provisions

Article 31. The institution authorized to operate in the foreign exchange market must promptly notify the beneficiary on the receipt of payment order in foreign currency coming from abroad in his/her name, informing him/her that the payment order can be negotiated in full or in installments.

Article 32. In buying and selling operations of gold as foreign exchange instrument against Brazilian currency as well as arbitrages of gold as foreign exchange instrument against foreign currency held by financial institutions and other institutions authorized to operate by the Central Bank of Brazil who are authorized to operate in the foreign exchange market, the same rules applied to buying and selling of foreign currency shall apply.

Sole Paragraph. The operations mentioned in this article shall integrate the foreign exchange position and affect the operational limits of the respective agents.

Article 33. Authorizations granted until the date of this Resolution for the opening and operation of deposit accounts in foreign currencies at banks authorized to operate in the foreign exchange market in Brazil shall be maintained.

Article 34. Agents authorized to operate in the foreign exchange market in Brazil, foreigners temporarily in Brazil and Brazilians residing abroad may maintain account of free movement in foreign currencies with banks authorized to operate in the foreign exchange market in Brazil

Article 35. Central Bank of Brazil may allow companies responsible for financial transfers related to use of credit cards or debit cards for international use, tourism agencies and tourist lodging facilities operating on the incoming or outgoing tourism to maintain account with restricted operations in foreign currency with bank authorized to operate in the foreign exchange market in Brazil.

Article 36. The revocation, cancellation or withdrawal of authorization to operate in the foreign exchange market involves the closure of foreign currency account, and the account holder must sell to an agent authorized to operate in the foreign exchange market the existing balance within the period specified by the Central Bank Brazil.

Article 37. Settlement is permitted in the foreign exchange market, in equivalent foreign currency of commitments in domestic currency of any kind, made between individuals or legal entities resident, domiciled or headquartered in Brazil and individuals or legal entities resident, domiciled or headquartered abroad, upon presentation of appropriate documentation.

Article 38. The Central Bank of Brazil will issue the necessary instructions to the implementation of this resolution, including provisions on:

I – foreign exchange position in foreign currency by financial institutions and other institutions authorized to operate by the Central Bank of Brazil;

II - operational limits of tourism agencies, as well as of companies hired according to specific regulation, including the criteria for its compliance.

Article 39. Resolution 3265, dated March 4, 2005 and 3311, dated August 31, 2005, art. 1 of Resolution No. 3334 dated December 22, 2005, Resolutions No. 3356, dated March 31, 2006 and 3412, dated September 27, 2006, art. 1 of Resolution No. 3417 dated October 27, 2006 and Resolution No. 3452, dated April 26, 2007 are hereby repealed.

Article 40. This resolution enters into force on the date of its publication, and will effective from July 1, 2008.

Brasília, May 29, 2008.

Henrique de Campos Meirelles
President