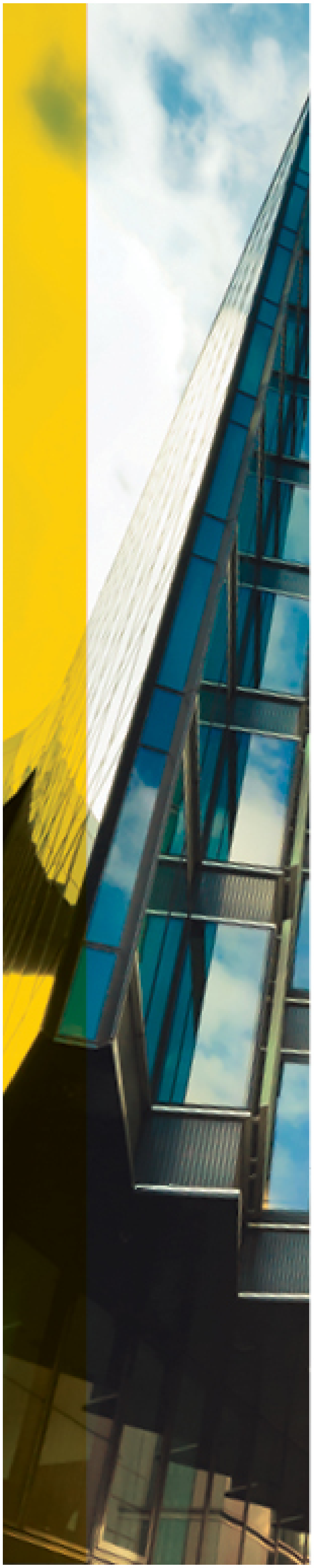

9 Regulation-related Facts We’ve Noticed in Latin America

The financial market in Latin America has been going through several transformations that seek greater transparency and suitability to the new times and global standards. With the maturing of the regulatory environment for the fund industry and correlates, we observe a strong tendency towards clarity and disclosure of information to investors.

In countries like Brazil, Mexico, Colombia and Chile, we have highlighted 9 regulation-related facts that deserve attention.

New regulation for the Fund Industry

The new CVM instructions 554 and 555 will soon regulate investment funds, superseding the current one, CVM 409, in practice for 10 years. They seek to modernize the Brazilian funds industry and will be in force on October 1, 2015. Among the main changes brought by the new regulation are the changes in the concept of “qualified” and “professional” investors, the reduced classification of fund types (from now on divided into Fixed Income, Equities, Multi-Strategy and Currency Exchange) and the increase of limits to invest offshore and in certain types of assets.

Boost to the BDR market

Brazilian Depositary Receipts (BDRs) have been through several regulatory changes, in an effort to see this market develop in Brazil. BDRs are certificates representing securities of foreign listed companies and are an alternative for the domestic investors as well as for foreign companies. Through them, the investor can invest abroad with the same comfort as if she were investing in Brazil, without the need of foreign exchange operations or the maintenance of custody accounts abroad.

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In contrast, the resources and the revenues generated by the market participants are held in Brazil.

In order to strengthen this market, the financial institutions have issued BDR lots and, recently, the CVM issued an instruction amending the Instruction 409, enabling the creation of BDR Level I equity funds and changing articles with the aim of allowing funds earmarked exclusively for qualified investors to buy Non-Sponsored BDR Level I in the same way that they buy stocks.

Financial institutions practice Social and Environmental Responsibility Policy

The National Monetary Council (CMN) approved a resolution that sets the guidelines for the establishment and implementation of Social and Environmental Responsibility Policy (PRSA) by financial institutions. The rule stems from a wide discussion with the society, initiated in 2011, which resulted in the conduction of a public hearing, whose notice was disclosed during the United Nations Conference for Sustainable Development (Rio+20) held in Brazil in 2012. The resolution defines that the policy must contain the guidelines for social and environmental actions in business and in the relationship of the institution with its stakeholders, based on two principles: 1) Proportionality: the policy must be compatible with the nature of the institution and with the complexity of its activities and its financial services and products; 2) Relevance: the policy must consider the extent of exposure to environmental risk of the institution's activities and operations.

New regulation for fiduciary administrators and managers

CVM issued, in March, the Instruction CVM 558, which regulates the professional exercise of the administration of securities portfolios, superseding the Instruction CVM 306/99 in Brazil. The goal is to update the rules under several aspects, stimulating competition in the third-party asset management market, and guarantee the regularity of this segment. This regulation makes it mandatory to publish periodic information, bringing more transparency to investors about the profile and data of the administrators and managers. Among the main changes we find: the creation of two registration categories for the securities portfolio managers: "fiduciary administrador" (responsibility for custody, controlling of assets and liabilities and, in general, supervision of the salubrity in management) and "asset manager" (responsible for making the investments decisions), aiming at giving more clarity to the roles of each participant; the substitution of the demonstration of professional experience in the portfolio management activity through the approval within certification exam; the attribution of responsibility to a statutory director for the implementation of and compliance with the Instruction; the improvement of conduct rules and internal controls, highlighting the application of transparency, diligence and loyalty principles; and the faculty by the portfolio manager director to accumulate the responsibility for the distribution of quotas and the compliance director to accumulate the responsibility for risk management. With the new instruction, administrators, even if not financial institutions, will also be able to distribute shares of funds managed or administrated by them.

Transactions of U.S. citizens outside the United States

The Foreign Account Tax Compliance Act (FATCA), which entered into force in July 2014 and regulates the transactions made by accounts of U.S. citizens outside the United States, is already being implemented in Brazil and the remaining Latin American countries. The U.S. law defines that financial institutions report operations of accounts maintained by U.S. citizens to the Internal Revenue Service. In case that is not made, the institutions will be subject to retentions of 30% tax on any U.S. source income and, from 2017, retention of 30% on the gross proceeds from the sale of any financial asset that produces U.S. source income, including on the principal invested in these assets. The agreement between Brazil and the U.S. was signed on September 29, 2014. Before that, however, task forces of the Brazilian Bank Federation (Febraban) and the Brazilian Association of Financial and Capital Markets Entities (Anbima), as the main representative of the capital markets, helped in the conduction and addressing of impacts of FATCA on the Industry of Investment Funds and Foreign Investors, provided for in CMN resolution no. 2689/2000.

Brazilian financial system prepares for Basel III

Since 2011, when Brazil participated in the construction of the document that parameters the norms of Basel III, Brazilian Central Bank issued several prevention measures to be adopted by financial institutions. From 2013 onwards, with the signature of the document, it has been adopting suitability measures to Basel III parameters, such as: Definition of Capital; Capital Additions and minimal standards; Credit Risk, Market Risk and Operational Risk; Prudential Conglomerate; Pillar 3; Short Term Liquidity Indicator (LCR) and Long Term Liquidity Indicator (NSFR). The implementation of the new rules was phased and is expected to be concluded by 2019. However, according to the Central Bank's Financial Stability Report, published in March 2014, this change could happen now, without hiccups. In all, 135 banks went through stress tests related to liquidity, defaults, and other aspects, considering the worst macroeconomic scenarios, and only four were still non-compliant with the minimum capital requirement in November 2013. At the beginning of May 2015, the agency disclosed a new study, the Brazilian Central Bank's Report on Research, Economics and Finance – 2014, which seeks to identify the side effects to the economy from policies adopted by different countries to exit the international financial crisis of 2008/2009. These measures involve additional capital requirements, liquidity and provisioning requirements, which seek to soothe excessive risks in times of exacerbation and excessive pessimism, such as the compliance with Basel III rules.

Mexico advances regulation

According to a survey by the World Bank made two years ago, Mexico is among the 50 best economies in the world in terms of improvements to its regulation of business since 2005. The country is also among the four first economies in Latin America and the Caribbean to implement more than three regulatory reforms in 2012, easing the conduction of business for local businessmen. They mainly focused on three steps: access to electricity became easier thanks to the efficiency of the internal processes of service companies; an electronic system was created for the one-stop sale, speeding foreign trade and strengthening the fulfillment of contracts upon the installation of small claims courts to serve civil and commercial cases. Mexico also created an electronic system for the payment of taxes through the past five years. The country moved forward in the protection of investments, as it defined clear obligations for the Boards of Directors and eased the creation of new companies, eliminating any minimum capital requirements, becoming aligned with the best corporate practices worldwide.

Chile creates new state-run pension funds administrator

In June 2014, the Chilean president, Michelle Bachelet, signed a bill that created a new state-run Pension Funds Administrator (AFP in Spanish) as one of the measures pledged during the elections campaign to improve the social security system, currently under heavy criticism in the country. In the composition of capital of the new AFP, the tax authority would invest 1% and the Development Corporation for Production (CORFO in Spanish) would add the remaining 99%, the latter being responsible also for the commercial exercise. When the bill was created, the accumulated resources in Chilean pension funds were the country's main source of investment, totaling about 92 million pesos. Some economists criticize, however, the new state-run AFP.

Colombia implements reforms to improve business

During the past few years, according to Doing Business, the Colombian government has implemented new forms to spur the country's economy. In 2015, three actions are highlighted: elimination of provisional registry, easing the transfer of property; improvement in the access to credit, with the adoption of a new law for guarantees that sets a functional and centralized system based on collateral registrations; the creation of a new tax on profit (CREE), which is more complex but reduces the income tax for companies and taxes on wages.