

# **Brazilian Stock Exchange – IPO Overview**

## **1. Regulatory Background**

### **1.1 Overview of Regulatory Background**

Firstly, before detailing all the Stock Exchange listing requirements, it is necessary to have an idea about the Brazilian regulatory framework. Before registering with the Brazilian stock exchange BM&F BOVESPA S.A. - BOLSA DE VALORES, MERCADORIAS E FUTUROS ("BM&FBOVESPA" or the "Stock Exchange") of the "República Federativa do Brasil ("Brazil"), it is necessary for the company to register with the Brazilian Exchange Commission as a publicly held company. Simultaneously, in order to register for a public offering it is mandatory to register with the Brazilian Exchange Commission. Therefore we will provide information on the Brazilian legal framework for capital markets in order to give a better idea about the Brazilian capital markets framework.

The Brazilian regulatory framework is made up of:

- federal laws;
- directions enacted by the Brazilian Securities Commission (Comissão de Valores Mobiliários) ("CVM" or the "Brazilian Securities Commission"); and
- directions enacted by the Brazilian stock exchange, BM&FBOVESPA.

The Brazilian Financial and Capital Markets Association (Associação Brasileira das Entidades dos Mercados Financeiro e de Capitais ("ANBIMA")) ANBIMA'S SELF-REGULATION CODE FOR PUBLIC OFFERINGS FOR DISTRIBUTION AND ACQUISITION OF SECURITIES is a set of rules that is extremely important as a sign of trust and accuracy.

The federal laws, applicable throughout Brazil, are:

- Law 6.385/76, the "Securities Act", which governs the securities market and creates the CVM (as amended from time to time) and demands the registration of all public offerings and the listing of companies which access the public capital market; and
- Law 6.404/76, the "Corporation Act" (as amended from time to time).

The CVM's directives are:

- Instruction CVM 202, which concerns listing Brazilian companies on the Brazilian capital market. This directive is currently effective, but there have been signs of future changes by the regulator for a number of years now;

- Instruction CVM 331 and 332, which concern listing foreign companies on the Brazilian capital market as issuers of certificates of securities, called Brazilian Depositary Receipts (BDR's);
- Instruction CVM 400, which is the main CVM directive for Brazilian public offers for the distribution of securities in primary and secondary markets.

There are also a considerable number of specific CVM Instructions for determined securities such as commercial notes (Instruction 134 and 155), infrastructure debentures (Instruction 460) and standardised debentures (Instruction 404), but these will not be covered in this chapter.

For the issuance of shares only, the company and the mentioned securities must fulfill the requirements for the elected level of negotiation with the BM&F BOVESPA S.A. - BOLSA DE VALORES, MERCADORIAS E FUTUROS, which could be "Novo Mercado", "Nível II" or "Nível I".

## **1.2 Regulatory Entities**

The CVM must be involved in the registration of the corporation as a publicly-held company and to register a public offerings.

BM&FBOVESPA the most important Brazilian stock exchange, must also register the company and the issuance.

ANBIMA, as the self-regulatory institution, will register certain types of public offerings after the completion of the public offerings if the investment bank is one of ANBIMA's affiliates. The new trend in Brazil is for the self-regulator to assess the public offering before it goes to the CVM. This process is subject to discussions between the CVM and ANBIMA. The result of these discussions will be the execution of an agreement that will regulate the procedure of this analysis.

The aim of both—and the market as a whole—is to allocate the actual devices available, together with the existing resources, in order for the CVM to improve enforcement.

## **1.3 Required Approvals**

Corporations may obtain consent<sup>1</sup> to the public issuance of equity by a resolution of the corporation arrived at through:

- a general meeting or a meeting of the administrative council, subject to the relevant provisions in the bylaws, in the case of any issue of shares within the limit authorised in the bylaws; or

- an extraordinary general meeting convened to pass an appropriate amendment to the bylaws, should there be no authorisation to increase the capital or if such authorisation has been exhausted.

The corporation can "*go public*" through the issuance of debentures which confer upon their holders credit rights against the company, under the conditions specified in the respective indenture and certificates.

Corporations obtain consent to the public issuance of issuance of debentures through:

- a general meeting;
- in publicly-held corporations, the general meeting may also delegate to the board of directors the power to decide on the period and conditions of maturity, amortisation or redemption; the period and conditions of payment of interest; participation in profits and refund premiums, if any; the method of subscription or placement; the type of debentures; and the time of issuance; and
- in publicly-held corporations, the board of directors, one of two bodies that make up the management of a corporation, may decide on the issuance of non-convertible debentures and unsecured debentures.

If the corporation decides to seek a listing through the issuance of commercial notes, the corporation's bylaws must expressly indicate each type of administrative body and the frame of consent. The deliberation on the issuance of commercial notes therefore, should follow the description in the bylaws. This alternative is possible, but it is rarely used because a Brazilian corporation can issue commercial notes without registering as a publicly-held company with the CVM.

As mentioned above, consent for "going public" implies the decision to be listed on BM&FBOVESPA.

## **2. Listing Criteria**

A Brazilian company seeking to list on BM&FBOVESPA must submit a request for company registration to the CVM together with a request for the public distribution of securities.

Publicly-held companies already registered for the trading of their securities in the over-the-counter market who wish to be registered for the trading of their securities on the Stock Exchange or in the organised over-the-counter market, must send a statement to the CVM notifying it of the request for approval of admission to trading of the securities issued by the company, this being dependent only upon the obtaining of registration with the CVM.

The company's bylaws or its board of directors should attribute to one director the accountability for the company's relationship with investors, which may be exercised together with other executive duties.

The director of investor relations is accountable for providing information to investors, to the CVM, and, if the company is registered with a stock exchange or an organised over-the-counter market, to these entities, as well as keeping the company registration updated.

Other eligibility requirements are related to the segments of BM&FBOVESPA.

## **2.1 Suitability / Eligibility of Listing Applicant**

BM&FBOVESPA sets a series of standards for the conduct of companies, managers and controlling shareholders considered to be important for the valuation of shares and other assets issued by the company.

The adherence to BM&FBOVESPA's "Special Corporate Governance Levels" distinguishes a company as either Companhia Nível 1 (Level 1 Company), Companhia Nível 2 (Level 2 Company) or Novo Mercado, depending on the degree of commitment assumed by the company.

The adherence to these practices better advertises the efforts of the company to improve its relationship with investors and increases the potential for appreciation in asset value.

The minimum eligibility requirements depend on the level of corporate governance.

There are 5 levels of negotiation in Brazil: "Novo Mercado", "Level II", "Level I", "Common Negotiation" and "Bovespa Mais". The first three of these are described below. The Common Negotiation Level has the same requirements as requested by CVM. Bovespa Mais is made for medium-sized companies.

The following rules will only be applicable if the company wants to go public through an issuance of shares. An issuer of debentures is not obliged to decide upon which level of negotiation its securities will be listed.

### **NOVO MERCADO**<sup>1</sup>

Novo Mercado (New Market) is a listing segment of BM&FBOVESPA designed for shares issued by companies that voluntarily undertake to abide by corporate governance practices and transparency requirements in addition to those already required by Brazilian law and the CVM.

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<sup>1</sup> See more at <http://www.bovespa.com.br/pdf/regulamento.pdf>

It is based on the premise that stock valuation and liquidity are positively impacted and assured by the shareholders' rights and by the quality of the company's information.

The admission to the Novo Mercado implies compliance with corporate rules, known as "good practices of corporate governance", which are more rigid than those required by current legislation in Brazil.

These rules, consolidated in the Listing Regulations, increase shareholders' rights and enhance the quality of information commonly disclosed by companies. Additionally, the Market Arbitration Panel for conflict resolution between investors and companies offers a safer, faster and more specialised alternative for investors.

In brief, publicly-held companies listed on the Novo Mercado have the following additional obligations:

- they must have obtained and kept the Company's CVM registration for the trading of its common shares on stock exchanges up-to-date;
- the capital stock must be solely represented by common shares (voting shares);
- public share offerings have to use mechanisms to favour capital dispersion and broader retail access;
- maintenance of a minimum free float, equivalent to 25% of the share capital of the company;
- same conditions provided to majority shareholders in the disposal of the Company's Control will have to be extended to all shareholders (tag along);
- establishment of a two-year unified mandate for the entire board of directors, which must have at least five members, of which at least 20% shall be independent members;
- disclosure of the annual balance sheet, according to US GAAP or IFRS standards;
- improvements in quarterly reports, such as the requirement for consolidated financial statements, translation into English, disclosure of any transaction carried out with related parties and special audit revision;
- obligation to hold a tender offer by the economic value criteria, in case of delisting or cancellation of registration as a publicly-held company;
- compliance with disclosure rules in trading involving securities issued by the company in the name of controlling shareholders;

- implementation of a new code of conduct and policy related to trading involving securities issued by the company;
- some of these obligations must be approved at a general shareholders' meeting and included in the corporate bylaws; and
- they must have no founders shares.

For 6 (six) months after the company's first public share offering after signing the Novo Mercado Agreement, the controlling shareholder and the senior managers must not sell, or offer to sell, any of the Company's shares or derivatives held by them immediately after that public offering. After the initial 6 (six) months, the controlling shareholder and the senior managers must not, for a further 6 (six) months, sell, or offer to sell, more than 40% of the company's shares and derivatives held by them immediately after that public offering.

## LEVEL II<sup>2</sup>

To be classified as a Companhia Nível 2, the company and its controlling shareholders must adopt and observe a much broader range of corporate governance practices and minority shareholder rights.

In brief, the criteria for listing as a Companhia Nível 2 are:

- compliance with CVM Rules;
- compliance with the obligations of Nível 1;
- establishment of a two-year unified mandate for the entire board of directors, which must have at least five members, of which at least 20% should be independent members;
- disclosure of the annual balance sheet according to US GAAP or IFRS standards;
- in case majority shareholders sell their stake, the same conditions granted to them must be extended to common shareholders, while preferred shareholders must get, at least, 80% of the value / conditions (tag along);
- voting rights are granted to preferred shares on the following matters:
  - transformation, merger, consolidation or spin-off of the company;
  - approval of contracts between the company and the controlling shareholder, whether directly or through third parties, as well as

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<sup>2</sup> See more at [http://www.bovespa.com.br/pdf/regulamento\\_niveis\\_ingles.pdf](http://www.bovespa.com.br/pdf/regulamento_niveis_ingles.pdf)

through other companies in which the controlling shareholder has an ownership interest, provided such contracts are approved at a general meeting under the legal requirements or under the company's bylaws;

- appraisal of assets contributed to pay the company's capital increases;
  - selection of the specialised company to determine the company's economic value; and
  - amendment to or revocation of any provisions contained in the company's bylaws.
- obligation to hold a tender offer by the economic value criteria, in case of delisting or deregistration processes;
  - admission to the Market Arbitration Panel for resolution of corporate disputes; and
  - company's bylaws must be amended to insert the Corporate Governance Level 2 required clauses - especially the Arbitration Clause.

### LEVEL 1<sup>3</sup>

Companhias Nível 1 largely undertakes to improve methods of disclosure to the market and to disperse their shares among the largest number of shareholders possible. Thus, the principal practices required of a Companhia Nível 1 are as follows:

- maintenance of a free-float of at least 25% of the share capital of the company;
- public offerings have to use mechanisms to favour capital dispersion;
- improvement in quarterly reports, including the disclosure of consolidated financial statements and special audit revision:
  - the company's financial statements and consolidated accounts must be prepared at the end of every quarter (except the fourth quarter) and at the end of the financial year and must include a cash flow statement. The cash flow statement must reflect at least the changes in cash and cash equivalents, with the balances broken down into operational, financial and investment activities;

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<sup>3</sup> See more at [http://www.bovespa.com.br/pdf/regulamento\\_niveisI\\_ingles.pdf](http://www.bovespa.com.br/pdf/regulamento_niveisI_ingles.pdf)

- the Company must begin submitting the cash flow statement no later than 6 (six) months after it is listed on the Corporate Governance Level 1;
- in the Standard Financial Statements (Demonstrações Financeiras Padronizadas - DFP), the Company must include the cash flow statement described above in the explanatory notes;
- in addition to the information legally required to be included in its quarterly financial statements, the Company must:
  - present a consolidated balance sheet, a consolidated income statement, and consolidated performance report when it is required to submit consolidated accounts at year-end;
  - disclose any direct or indirect ownership interest per type and class exceeding 5% of each type and class of the company's capital stock, to the level of individual shareholders;
  - report, on a consolidated basis, the quantity and characteristics of the company's securities directly or indirectly held by the controlling shareholder, the senior managers and the fiscal council members;
  - report the evolution of the volume of securities held by the controlling shareholder, the senior managers and the fiscal council members over the preceding 12 (twelve) months;
  - include the cash flow statement in explanatory notes; and
  - state the free float volume, per type and class, and respective percentage in relation to the total capital stock; and
- monthly disclosure of trades involving equities issued by the company on the part of the controlling shareholders;
- disclosure of an annual calendar of corporate events;
- in case of a public offering, the company's prospectus must comply with the requirements below:
  - it must be written clearly, avoiding legal or technical terms and cross-references to other documents and rules;
  - it must include an index and summary describing its contents for easier consultation;
  - it must present the updated information that was provided to the CVM: to obtain registration as a publicly-held company authorised

to trade its securities on stock exchanges and to make a public offering;

- the telephone number and e-mail address for contacting the investor relations officer must be stated;
- an economic and financial feasibility study must be provided when the CVM rules require one, and the format of the study must comply with CVM rules;
- the risk factors must be described;
- risk factors include all facts related to the company and its business that might affect an investor's decision to buy the company's securities;
- risk factors include, among other things: the company not having a track record; financial difficulties the company faces; and risks inherent in the company's current or future activities;
- an overview of the company's activities must be given. This overview must include:
  - a description of the company's business, production processes and markets, as well as those of its subsidiaries;
  - macroeconomic factors that might affect the company's business;
  - a list of products and services the company offers and their respective share of total revenue;
  - a description of the products and services under development;
  - relationships with suppliers and customers;
  - reliance on domestic and foreign markets;
  - effects of government action on its business, together with the existence of any specific regulations governing its activities;
  - information about trademarks, patents, and licences;
  - relevant contracts, and the potential effects of future renegotiation of these contracts on the company's business;
  - number of employees and human resources policy; and
  - major competitors in the company's market;

- it must have a management report analysing and discussing the company's financial statements. This report must explain:
  - the reasons for any changes in the income statement accounts over the last 3 (three) or more years;
  - the effect of inflation; and
  - the company's ability to meet its financial commitments;
- all types of securities issued by the company must be described with a clear statement of their underlying rights and other features (e.g. type, yield and trading place), together with any history of prices for these securities;
- court, arbitration and administrative cases in which the company is involved must be described, including the amounts involved, chances of success, and whether any provisions have been made;
- the prospectus must declare all transactions entered into between the company and its controlled and associated companies, senior managers, and controlling shareholder; between the company and companies controlled by or associated with the senior managers and controlling shareholder; and between the company and other companies that form a group with any of the people mentioned above, either in fact or in law;
- it must describe all events or transactions that will take place during the public offering period that might affect the price of the securities;
- it must describe the qualifications and experience of the senior managers and fiscal council members, as well as the company's compensation and benefit policies;
- it must disclose any direct or indirect ownership interest per type and class that exceed 5% of each type and class of the company's capital stock, up to the level of individual shareholders.
- it must require the controlling shareholder to report the volume and characteristics of the company's securities that it holds, directly or indirectly, to BM&FBOVESPA, including Derivatives. It must give this notice promptly after acquiring control. Any trading in securities or Derivatives described in this section must be reported in detail to BM&FBOVESPA, including price, within 10 (ten) days after the end of the month in which these deals took place. The requirement dealt with in this section includes securities and the respective Derivatives held directly or indirectly by the spouse, domestic partner and dependents stated on the annual income tax returns of the controlling shareholder;
- it must have no founders shares;

- it must require all the board of directors and executive office new members to sign the statement of consent from senior managers. Joining the board of directors and the executive office is conditional on signing the statement of consent. A signed copy must be sent promptly to BM&FBOVESPA, except when this requirement is prescribed in the company bylaws; and
- in the case of a disposal of control, the selling controlling shareholder must require the buyer to sign the statement of consent from the controlling shareholder, otherwise: (i) the selling controlling shareholder cannot transfer title to his shares; and (ii) the company will not register any transfer of shares to the buyer or to whoever holds its control. A copy of this document must be promptly forwarded to BM&FBOVESPA.

## **2.2 Track Record Requirement**

There is no need for previous trading to be listed on our stock exchange.

## **2.3 Sufficiency of Working Capital**

There are no requirements as to sufficiency of working capital.

The company's financial statements and use of proceeds must however be disclosed in the prospectus.

It should also be noted that the sufficiency of cash flow or the sources to pay all obligations of the company will be verified by a service similar to a trustee (called, in Brazil, a fiduciary agent) in debt transactions.

## **2.4 Eligibility for Electronic Settlement**

To be listed on BM&FBOVESPA S.A. - BOLSA DE VALORES, MERCADORIAS E FUTUROS, the securities need not be eligible for electronic settlement. In capital markets, the majority of securities are settled electronically.

## **3. Overseas Companies**

If the national securities commission where the company is incorporated has a cooperation agreement with the CVM, the foreign company can access Brazilian capital markets through Brazilian depositary receipts.

A Brazilian depositary receipt, or BDR, is a certificate of shares issued in the place of incorporation of the company, which can be negotiated in Brazil. The shares or securities will be placed in the hands of a custodian and a depositary will issue the certificates in Brazil. The mechanism is similar to ADRs and GDRs.

The foreign company must register itself as a publicly held company and an issuer of BDRs, and issue securities held in custody in the issuer's home market. Afterwards, a depository will issue BDRs, under Levels I, II or III programs (depending on the disclosure requirements adopted), resembling the shares in the hands of a custodian.

BDRs Level I do not require any previous registration with CVM. However, despite lower disclosure requirements such BDRs are limited to (i) qualified investors, (ii) employees of the issuer, (iii) pension funds, and (iv) portfolio managers and traders, in relation to their own resources. This restriction was enacted by CVM Instruction 493/11.

The public offering of BDRs Levels II and III must be submitted to the CVM, which will then analyse and authorise, or not as the case may be, a registration. The holders of DRs are entitled to all economic and corporate rights in accordance with the terms set forth on the DR.

The registration of the company, as a BDR issuing agent, will be granted following:

- the nomination by the depository institution of the director responsible for the BDR programme;
- the designation of the company's legal representative in Brazil, with full power over any issues, with the possible request for and receipt of the initial summons and notifications by the company (...podendo ser demandado e receber citação inicial e intimações pela sociedade);
- the request for company registration, prepared with the following documents and information:
  - document of company administration designating the legal representative and the document from the depository institution nominating the director responsible; and
  - application signed by the responsible director at the depository institution containing information on:
    - the stock exchange or organised over-the-counter market upon which the company has its securities traded, and the amounts traded during each of the last twelve (12) months;
    - the company's controlling shareholders;
    - the administrators who generate the company's business;
    - the company's consultants and independent auditors;
    - the address of the company's headquarters;

- the location where shareholders are attended to; and
  - the 'client' service provided for investors in the BDR program;
- issues of interest to investors concerning the BDR program and the services provided by the depositary institution;
- the legal opinion issued by the attorney in the country where the securities are based concerning the legal environment of such country, especially as concerns the requisites and limitations on negotiation, hypotheses of cancellation of registration and restrictions on the exercise of policy and pecuniary rights, including, if such be the case, when due to a difference of headquarters location between the company and the custodian; and
- issues of interest to investors concerning the BDR program and the services provided by the depositary institution.

The following information in relation to the company is required to be provided by its legal representative:

- the social charter or articles of association which regulate the company;
- the correlating legislation which regulates the company;
- the shareholders' agreements;
- a legal opinion issued by an attorney in the country of origin concerning the rights of the holders of the securities issued by the company and the legal environment of that country; and
- the minutes of all the shareholders' and bond holders' general assemblies, and of all the meetings of the company's executive bodies held during the twelve months prior to the registration date with the CVM.

The following accounting information must be provided by the company's legal representative:

- The company's financial information and the consolidated statements as presented in the country of origin, relating to the previous three tax years, in which are included administrative reports and independent auditors reports.
- The company's financial statements and the consolidated statements drawn up in accordance with Brazilian accounting standards and accompanied by the special revision report issued by an independent auditor registered with the CVM, and the presentation of the Standardised Financial Statements (DFP) form, completed based upon the mentioned report.

- The information on the quarterly financial balance sheet and on the quarterly results statement, in accordance with Brazilian accounting principles and practices, together with a quarterly performance report relating to each of the first three quarters of the current tax year, should more than forty-five days have elapsed since the closure of each quarter, or if they have been published in another country, together with a special revision report issued by an independent auditor registered with the CVM.
- Determining information on the Annual Information Form (IAN).
- The history and development of the company, with the main events which have determined the conduct of business, including company mergers, acquisitions and split operations, current investments and divestitures, and business policies.
- The organisational structure with a description of the company's business sectors and subsidiaries.
- A business scenario with a description of the company's nature of operations and its main activities, the main sectors of products and services sold in each one of the last three years; a description of the main markets in which the company competes, with a detailed report of the receipts, by activity sector and geographical market in each of the last three years; a description of the seasonal nature of the company's main business; a description of the distribution channels used by the company, with explanations of the company's sales methods; a summary of the situation relating to patents, licences and brands; and a description of the important effects of the regulatory environment on the company's business.
- Comments, and operational and financial perspectives concerning the liquidity and profitability, generation, and application of resources, relating to the company's business sector.
- The reasons for variations in the items of the accounting statements from one year to another which will be necessary for an understanding of the company's business as a whole.
- The economic-financial viability study of the project showing the risk factors involved in the enterprise, developed on a date which precedes the delivery of the request to the CVM by up to three months, when concerning a company in the pre-operational phase.
- An indication of the risk factors relating to the limitation of the exercise of rights by the BDR title holders, including those arising from the difference between the headquarters of the company and the country where the securities are traded, developed on a date which precedes the delivery of the request to the CVM by up to three months.

- Any other additional information issued in any other market where the company has its securities traded.
- The company's financial statements and the consolidated statements should be complemented by explanatory notes in addition to the statements, which describe:
  - the accounting standards of the country of the company's headquarters and a comparative analysis of the principles and practices applicable in the country with Brazilian principles and practices;
  - information of an accounting nature published in any other country which is not the country of origin; and
  - the conciliation of financial elements and results with those investigated in accordance with Brazilian accounting practices and principles.

In terms of timing, the preparation period from the decision to list (BDRs Levels II and III) until the filing date is typically 120 days and the period from filing until the CVM registration is typically 60 days. Of course, this time frame is indicative only and could decrease or increase, depending upon the circumstances. The stock exchange cannot list a company or a tender offering without CVM registration.

#### **4. Shareholding Requirements**

##### **4.1 Public Float**

Depending on the segment chosen by the Company, there are specific requirements for the maintenance of a public float as explained in section 2.1.

A public issue is characterised by:

- the use of sales or underwriting lists or bulletins, leaflets, prospectuses, or advertisements directed at the public;
- the search for underwriters or purchasers of securities by employees, agents, or brokers; and
- trading carried out in a store, office, or establishment open to the public, or by using public communication services.

The sale, sale commitment, offer for sale or subscription are public distribution acts, as are the acceptance of a sale order or the subscription of securities consisting of any of the following elements:

- the use of lists or sales or subscription bulletins, leaflets, booklets or advertisements of any medium or form meant for the public;

- the complete or partial search for subscribers or undetermined purchasers for the securities, even if attempted through standard communications directed to individually identified addressees, through employees, representatives, agents, or any natural person or legal entity whether they take part in the securities distribution system or not, or, consultation on the feasibility of the offer or the collection of an investment commitment with subscribers or undetermined purchasers even if in noncompliance with the provisions of this instruction;
- negotiations conducted in stores, offices, or establishments open to the public and intended, in whole or in part, for subscribers or undetermined purchasers; or
- the use of oral or written marketing, letters, advertisements or notices, especially through mass or electronic media (pages or documents on the worldwide web or other open computer networks and email), and any form of communication directed to the general public with the objective of promoting, directly or through third parties acting on behalf of the issuer, the subscription or disposal of securities.

The general public is considered as a class, category, or group of people, even if individualised, with the exception of those who have had a close and regular previous commercial, credit, partner or work relationship with the issuer.

## **4.2 Restrictions on Major Shareholders**

If the majority shareholder or the controlling corporation directly or indirectly wants to delist the company, they must make a public offer to acquire all outstanding shares for a fair price and must proceed with the publication of an announcement in the press.

If the majority shareholder or the controlling corporation acquires shares of a publicly-held corporation under its control, and these shares directly or indirectly increase their interest in a certain class of shares in a way that hinders the market liquidity of the remaining shares, they are required to make a public offer at a fair price for the acquisition of all shares remaining in the market, according to the general rules issued by the Brazilian Securities Commission. Also, an announcement in the press must be published.

The fair price has to be at least equal to the appraised worth of the corporation, calculated on one or more of the following criteria: net assets appraised at market value; discounted cash flow; comparison by multiples; share quotation in the securities market; or another criteria adopted by the Brazilian Securities Commission.

The direct or indirect controlling shareholders and the shareholders who vote for members of the Fiscal Board of Directors, as well as any person or company or group of people acting together or representing the same interest that have either direct or indirect participation corresponding to 5% or more in a type or class of

shares representing the capital of a publicly held company, must send to the company the following information:

- the announcers' names and qualification, indicating their National Register of Legal Persons number or the Register of Natural Persons number;
- objective of the participation and quantity envisaged, if it is the case, including a declaration of the buyer where purchases will not alter the composition of the control or administrative structures of the company;
- number of shares, subscription bonus, as well as rights to subscribe to shares and options to buy shares, by sort and type, already held, directly or indirectly, by the assignor or linked person;
- number of debentures convertible into shares, already held, directly or indirectly, by the assignor or linked person, explaining the quantity of shares intended to be converted, by sort and type; and
- indication of any agreement or contract regulating the right to vote or purchase and sell securities issued by the company.

Individuals or groups of individuals representing a common interest are also under an obligation to disclose the same information, if they hold shares equal to or higher than the shareholding percentages stated above, each time there is an increase of 5% in their holding of a type or class of representative shares of the company's share capital.

The direct or indirect controlling shareholders and the shareholders who vote for members of the fiscal board of directors, as well as any person or company or group of people acting together or representing the same interest, shall also communicate the disposal or extinction of shares and other securities mentioned in this article, or of rights over them, every time the participation of the owner in the type or class of the securities mentioned reaches 5% of the total of such type or class, and every time such participation is reduced by 5% of the total in type or class.

A public offer shall be mandatory whenever there is a direct or indirect disposal of control of a publicly held company. The offer must be made for all shares issued by the company which carry the full and permanent right to vote, by legal or statutory provision. The offer price for such shares must be at least 80% of the amount paid for the voting shares comprising the controlling block.

In cases where share acquisitions result in a change the composition of the control or administrative structures of the company, as well as in cases which the share acquisition creates an obligation to make a public offer, the acquirer is required to publish an announcement in the press.

### **4.3 Post IPO Lock-up**

There is a practice of contractually ‘locking-up’ shareholders after listing. Shareholders are commonly prohibited from disposing of their shares for a specified period, which is normally for 40 days after publication of the Distribution Closure Announcement.

## **5. Listing Procedure and Timetable**

A period of around four (4) months is typically required for the listing of a corporation as a publicly-held company.

The registration of a public offering takes two months, on average, from the lodging of the request until the grant of registration. This period could be shorter or longer, depending on the complexity of the transaction, the number of investors and the number of transactions currently being analysed. The time required tends to be shorter as a result of agreements between CVM and self regulators, such as ANBIMA.

### **5.1 Marketing the Offer**

In general, the launch of a roadshow starts after compliance with the first round of requirements from CVM. After this and until the bookbuilding date, the underwriters will contact and present the offering to the public investors described in the prospectus.

### **5.2 Required Documentation**

The registration of the corporation as a publicly held company should be requested together with the following documents:

- The minutes of the meeting of the board of directors or the minutes of the general shareholders’ meeting at which the director accountable for relations with investors was nominated.
- A request signed by the director accountable for relations with investors, containing information on:
  - the principal characteristics of the securities distribution;
  - the allotment of company shares stating the manner in which its shares have been distributed in the market, with an enclosed registered list of the current shareholders and the respective quantities of shares held; or
  - other grounds on which the request for registration is founded.
- In the event of a request for registration for trading on the Stock Exchange or on the organised over-the-counter market, a statement from the entity notifying the request for approval for admission to trading of the securities issued by the company, dependent only on obtaining registration with the CVM.

- An updated copy of the bylaws.
- Financial statements and explanatory notes for the three most recent fiscal years as set forth in article 176 of Law 6.404 (Corporation Law) of 15 December 1976, indicating the newspapers and dates of their publication.
- Financial statements for the last financial year or drawn up to a posterior date to the end of the last financial year in constant currency, in the terms of the regulation issued by the CVM;
- The management report of the company for the last financial year.
- The independent auditor's opinion, who should be properly registered with the CVM, concerning the financial statements from the last fiscal year and the financial statements.
- Consolidated financial statements drawn up in accordance with the legislation in force and the CVM rules, in constant currency, accompanied by explanatory notes and the independent auditor's opinion, for the most recent fiscal year, or for a posterior period to the end of the most recent fiscal year, whether in this period the investments added to credits in controlled companies represent more than 30% of the net worth of the company.
- Financial statements and, if applicable, consolidated statements accompanied by explanatory notes and the independent auditor's opinion, duly registered with the CVM, and drawn up in accordance with the provisions of Law 6.404/76 (See Appendix II) and in constant currency, produced, at the most, three months before the request for registration with the CVM when:
  - the most recent fiscal year is of exactly 12 (twelve) months and, on the date the request for registration was made, a period of time equal to or greater than 45 (forty-five) days has already passed after the end of that fiscal year;
  - the most recent fiscal year lasts more than 12 (twelve) months and the company is yet to produce the respective financial statements; or
  - the current fiscal year will last more than 12 (twelve) months and, on the date the request for registration was made, a period equal to or greater than 12 (twelve) months has passed.
- The minutes of all shareholders' meetings which occurred in the 12 (twelve) month period preceding the date of registration with the CVM.
- A facsimile of the certificates for all types of securities issued by the company or, if applicable, a copy of the contract agreed with the respective registrar of companies services provider.

- In case of a company at a pre-operational phase, a feasibility study on the economic-financial aspects of the project, which should state the risk factors involved in the venture, drawn up on a date preceding by up to three months the date the request for registration was made to the CVM.
- Annual Information Form (IAN).
- Standardised Financial Statements (Demonstrações Financeiras Padronizadas (DFP)).
- Quarterly Information Report (Informações Trimestrais - ITR) containing information on the first three quarters of the current fiscal year, provided that not more than 45 (forty-five) days have passed since the closure of each quarter. Such information should be accompanied by a Special Revision Report issued by an independent auditor registered with the CVM, following the practices recommended by the Technical Communiqué - CT-IBRACON N° 2, of 23 July 1990, issued by the Instituto Brasileiro de Contadores ("Brazilian Institute of Accountants") and approved by the CFC Resolution N° 678, of 24 July 1990, from the Conselho Federal de Contabilidade ("Federal Board of Accounting") in articles 22 and 23.
- The presentation of forecasts is optional, but, when they are released, the company should comply with the following requirements:
  - to present, clearly, for each of the forecasted items and timeframes, the correspondent methodology used in the calculations and assumptions;
  - to present, when providing the quarterly information, a comparison between the forecasts and the actual results which were obtained during the quarter, indicating clearly and exactly the reasons which led to deviations between the forecasts and the actual results; and
  - when, at the discretion of the administrators, and based on solid grounds, the projections cease to be valid or are amended, the market should be informed immediately.
- It is recommended, but not compulsory, that information should be given on the capital structure - the relationship between the company's own resources and those of third parties, which the administrators consider adequate and intend to maintain in the long-term - and a managerial analysis - the appreciation, by the managers, of the principal events which have occurred in the company which are relevant and affect the company's life, including those concerning its net worth and income. These comments should allow the investor to evaluate the financial results of the company through the information known by the managers and not necessarily reflected in the financial statements.

New companies must also submit the Study of Economic-Financial Feasibility (See item 3.7. of CVM Instruction 400, Appendix I).

The date of filing documents will be the commencement date for a review period of 20 business days for tender offering requests for registration and 30 days for listing corporations as publicly-held companies.

### **5.3 Publication of Prospectus**

From the beginning of the process, which is the filing with the CVM, the prospectus must be available on the company's website and CVM's website, as a "Prospectus' Draft".

Should a preliminary prospectus be used, the lead institution will immediately publish a notice. The preliminary prospectus must be available at the underwriters', company's and stock exchange's websites, from the time of the Market Announcement publication regarding the chronology of the offering events and the presentation of all team work, as the "Preliminary Prospectus".

The definitive prospectus must be available at the underwriters', CVM's, company's and stock exchange's websites from the grant of registration by CVM. The lead institution will give wide disclosure to the offer by means of a distribution commencement notice, published in the newspapers in which the issuer normally publishes its notices.

All these versions of the prospectus must be lodged with the CVM in three (3) physical volumes.

There is no need to send physical volumes to all investors, but all requests must be answered and the physical volumes must be delivered if requested.

## **6. Documentary Requirements**

### **6.1 Contents of Main Listing Document**

The key document, from the legal point of view, is the prospectus. The content of the prospectus is set out in Appendix I of CVM Instruction 400, detailed below.

### **6.2 Other Documents**

Other documents which may be prepared include announcements and publicity materials if these are important in terms of selling securities. Both must be approved by CVM.

### **6.3 Articles / Constitutional Documents**

Depending on the listing of BM&FBOVESPA chosen by the company, there are specific requirements to be met as outlined in section 2.1

## **7. Financial Information**

### **7.1 Audited Financial Statements**

Law 6404/76 states in its section 176 and the following sections, the main rules regarding financial statements, which are set out at Appendix II to this chapter.

### **7.2 Applicable Accounting Standards**

Historically, the applicable accounting standards have been Brazilian GAAP. However, starting from reporting periods ending in 2010, public companies are required to present their consolidated financial statements according to International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board (IASB).

### **7.3 Period Covered by Accounts**

The accounts, as a rule, must cover the last three (3) fiscal years. The fiscal year has a term of one year and the year-end date must be specified in the bylaws.

The financial information provided can be the latest financial information available on CVM's systems. Our recommendation is to lodge the most accurate and actual information.

### **7.4 Pro Forma Financial Information**

Companies may include *pro forma* financial information.

### **7.5 Interim Financial Information**

The company must include quarterly financial information.

## **8. Parties Involved**

### **8.1 Sponsor**

There is a requirement to appoint a sponsor in relation to the prospectus, but there is no requirement to retain the same team after admission to the Brazilian Stock Exchange.

The sponsor will be the underwriter, who must be registered with the Central Bank and the Brazilian Securities Commission.

### **8.2 Other Advisers**

All participants of a working group involved in the listing of a company or registration of a tender offering, or both, due to the number of people and variety of specialisations involved, must be hands on, cooperative and share knowledge and experience in the preparation of documents.

The latest trend in Brazil is to hire a financial consultancy, before the "*going public process*", with the task of preparing the company for listing and selecting the best alternatives from amongst those presented by the underwriters.

## 9. Listing Costs<sup>4</sup>

### 9.1 Listing Fees

There is no initial tax for listing on the Stock Exchange. However, there is an annual tax based on the share capital. Detailed information is available at [http://www.bovespa.com.br/Pdf/Precos\\_Bolsa.pdf](http://www.bovespa.com.br/Pdf/Precos_Bolsa.pdf).

The CVM, requires the payment of a quarterly tax, according to the shareholders equity of the company, as per the table below:

Shareholders Equity	Quarterly Tax
Up to 8.287.000,00	R\$ 1.243,05
From 8.287.000,01 to 41.435.000,00	R\$ 2.486,10
Over 41.435.000,00	R\$ 3.314,80

*Source: [www.cvm.gov.br](http://www.cvm.gov.br)*

### 9.2 Sponsor's Fees

The amount of the sponsor's fee will depend on a number of factors. However, an estimate for the sponsor's fee could be in the range of 1% to 4% of the global amount of the tender offering.

### 9.3 Lawyers' and Accountants' Fees

There is no fixed rate for these services due to a number of items to be analysed. However, the cost is normally a fixed fee.

## 10. Corporate Governance Requirements

The corporate governance requirements are detailed in Section 2.1.

## 11. Continuing Obligations

The continuing obligations are as follows:

- Send periodical and occasional information to the CVM, the stock exchange where its securities were originally admitted, the stock exchange where they were most traded during the last fiscal year, and other exchanges requesting them.

<sup>4</sup> See <http://www.bovespa.com.br/Pdf/CustosSA.pdf> -- Portuguese Language Material

- Make periodical and occasional information available to the securities owners at the shareholders' department of the company.
- Update the CVM about any modification in the company register information within five days after such modification occurs.
- Provide financial statements and, if this is the case, consolidated statements drawn up in accordance with the provisions of Law 6.404 of 15 December 1976, and rules issued by the CVM, followed by the management report and the independent auditor's opinion.
- Provide Standardised Financial Statements (Demonstrações Financeiras Padronizadas (DFP)).
- Provide the summons to call the annual shareholders' meeting on the same day as it is published in the press.
- Provide an Annual Information Form (Formulário de Informações Anuais (IAN)).
- Provide a summary of the decisions taken by the annual ordinary stockholders' general meeting on the day after it was held.
- Provide the minutes of the annual ordinary stockholders' general meeting within 10 (ten) days after it was held, with references to the dates and newspapers of its publication, if this has already occurred.
- Provide a facsimile copy of the certificates for securities issued by the company if there have been any amendments to those sent earlier, within 10 (ten) days after the alteration(s).
- Provide a Quarterly Information Report (Informações Trimestrais (ITR)) drawn up in constant currency, accompanied by the Special Revision Report issued by an independent auditor registered with the CVM, within 45 (forty-five) days after the completion of each quarter (except the last one) of the fiscal year or when the company releases such information to shareholders or third-parties, depending on which occurs sooner.
- Update the Annual Information Form (IAN) whenever any event occurs altering the information provided, within 10 (ten) days from the occurrence of the event.
- Provide summons to call special or extraordinary shareholders' general meeting on the same day it is published.
- Provide a summary of the decisions taken by the special or extraordinary shareholders' general meeting on the day after the meeting has been held.
- Provide the minutes of the special or extraordinary shareholders' general meeting within 10 (ten) days after the meeting has been held.

- Provide controlling shareholders' agreement when it is filed with the company.
- Provide joint venture agreements when they are approved.
- Provide notification of material events on the same day as their disclosure in the press.
- Provide information on forced agreement with creditors, its grounds, financial statements especially drawn up to obtain such legal privileges and, if applicable, the situation of debenture holders in relation to their earnings rights, on the same day as the court receives the suit.
- Provide the court decision on the forced agreement with creditors on the same day the company becomes aware of it.
- Provide information on a request or admission of bankruptcy on the same day the corporation becomes aware of it or when the request is made to the court.
- Provide the judgment declaring bankruptcy, with the nomination of the trustee, on the same day the company is aware of the same.
- Provide other information requested by the CVM within the timeframe set by it.

## **12. Our Office**

We can give legal advise to a foreign client wishing to list on Brazil's Stock Exchange. For further information please contact Vanessa Constantino Brenneke (vanessabrenneke@felsberg.com.br)

### **Sources used in the preparation of this memo**

Websites: [www.cvm.gov.br](http://www.cvm.gov.br); [www.bovespa.com.br](http://www.bovespa.com.br), [www.anbima.com.br](http://www.anbima.com.br), [www.ibgc.gov.br](http://www.ibgc.gov.br).

## **Appendix I**

### Prospectus Layout

Prospectus Cover

(COMPANY NAME)

(ADDRESS)

(VALUE OF ISSUANCE - in R\$)

(RISK CLASSIFICATION, if existing)

ISIN CODE: .....

STAMP OF THE CORPORATE BODY THAT APPROVED THE OFFER

REGISTRATION AT THE CVM: .....

DATE: .....

ISSUANCE OF ..... (IN) [SECURITIES] ..... (QUANTITY) (PAPER, SORT, FORM, AND CLASS) [OF THE PAR VALUE OF ..... (WITHOUT PAR VALUE)], AT THE UNIT PRICE OF ..... , DELIBERATED BY THE SHAREHOLDERS MEETING OF ..... OF .....OF ..... (RE-RATIFIED BY THE SHAREHOLDERS MEETING OF ..... OF ..... OF .....), ACCORDING TO MINUTES PUBLISHED IN ..... NEWSPAPERS OF ..... SURPLUS TO BE DISTRIBUTED IN THE MARKET ..... MINIMUM QUANTITY OF SURPLUS TO BE DISTRIBUTED IN THE MARKET .....

"THE REGISTRATION OF THIS DISTRIBUTION DOESN'T IMPLY, ON THE PART OF CVM, ANY GUARANTEE OF TRUTHFULNESS OF THE INFORMATION RENDERED, OR JUDGMENT ABOUT THE QUALITY OF THE ISSUING COMPANY, OR ON THE [SECURITIES] TO BE DISTRIBUTED."

"THE INVESTORS SHOULD READ THE SECTION CALLED RISK FACTORS, PAGES ..... TO ....."

and, if such is the case,

"THE SECURITIES OBJECT OF THIS OFFER SHALL NOT BE TRADED ON THE STOCK EXCHANGE OR ORGANIZED OVER-THE-COUNTER MARKET SYSTEM, AND THE AVAILABILITY OF INFORMATION ON PRICES PRACTICED OR BUSINESS ACCOMPLISHED CANNOT BE ASSURED."

INDEX

(Indicating topics, subtopics, and respective pages)

## **1. SUMMARY THE CHARACTERISTICS OF THE OPERATION**

- 1.1 Brief description of the operation, including presentation of the issuer and corporate brokers involved, identification of the target public, prices, and value of the issuance, and indication of admission for negotiation in stock exchange, organized over-the-counter market, or non-organized over-the-counter market.

## **2. IDENTIFICATION OF MANAGERS, CONSULTANTS, AND AUDITORS**

- 2.1 Name, commercial address, and contact telephone number of managers who can render clarifications on the offer;
- 2.2 Name, commercial address, and telephones numbers of the consultants (banking, legal, etc.) involved in the offer, and responsible for the facts or documents mentioned in the prospectus;
- 2.3 Name, commercial address, and telephones of the auditors responsible for auditing the financial statements of the last 3 (three) fiscal years; and
- 2.4 Statement, in the terms of art. 56, testifying as to the truthfulness of the information contained in the prospectus.

## **3. INFORMATION RELATED TO THE OFFER**

### **3.1 COMPOSITION OF THE CAPITAL**

- 3.1.1 Current capital (including emphasis, in terms of quantity and percentage, of the stockholders that hold more than 5% (five percent) of the capital, through total participation and through class / sort); and

- 3.1.2 Capital after the increase, if such is the case.

### **3.2 CHARACTERISTICS AND TERMS**

- 3.2.1 Description of the offer and the securities to be issued, including, at least, information relative:

- 3.2.1.1 to the quantity of securities of each class and sort to be issued, and to their rights, advantages, and restrictions, also in relation to the submission to preemptive right, by specifying also those rights, advantages, and restrictions resulting from eventual decisions of the assembly or board of management that decided the increase;

- 3.2.1.2 to the total value of issuance or to the form of calculation of the total issuance value, in currency;

- 3.2.1.3 to the corporate authorizations necessary for the issuance or distribution of the securities, by identifying the deliberative

bodies responsible and the respective meetings in which the operation was approved;

3.2.1.4 eventual conditions the public offer is submitted to;

3.2.1.5 in case issuance of securities without par value, besides the issue value meant for the formation of capital reserve, if existing; and

3.2.1.6 to the quotation on the stock exchange or organized over-the-counter market of the securities to be distributed, also abroad, by identifying (i) minimum, average, and maximum quotation of each year, over the last 5 years; minimum, average, and maximum quotation of each quarter, over the last 2 years; and minimum, average, and maximum quotation of each month, over the last 6 months, informing also, in the event a capital increase or distribution of dividends has occurred during the period, the time in which the "ex-rights" negotiations began.

3.2.2 In the case of primary issuance of stock, a justification on the issue value for the securities to be distributed, as well as of the criterion adopted for its value fixing.

3.2.3 Schedule of the offer steps, emphasizing at least:

3.2.3.1 the dates provided for the commencement and the closure / result of the offer, the possibility of its suspension or extension, depending on the case, or even, in the event they are not known, the form in which such dates shall be announced, as well as the form in which there shall be release of any call related to the offer; and

3.2.3.2 the terms, conditions, and form for: (i) communications of acceptance of interested investors, or of acceptance rescinded, (ii) subscription, payment and delivery of the respective certificates, according to the case, (iii) distribution to the public, (iv) after the disposal of the securities acquired by the leader as a result of the rendering of guarantee, (v) payment and financing, if such is the case, (vi) for the delivery of certificates of securities or multiple papers or the certificates representing them, (vii) return and reimbursement of investors, if such is the case, and (viii) any other dates related to the public offer that interest the investors or the market in general.

3.2.4 Dilution (only applicable in the hypothesis of issuance of stock, subscription bonus, or convertible debentures):

3.2.4.1 develop a description comparing the issue value to the price paid by managers, controllers, or holders of options who acquired stock in the last five years;

- 3.2.4.2 present the value and percentage of immediate dilution resulting from the issuance, computed as the difference between the price of shares issued and their book value based on the last available accounting information; and
- 3.2.4.3 present the immediate dilution of the shareholders that do not subscribe to the stock issued, or the investors that subscribed to it in the offer.
- 3.2.5 Information on the eventual appropriation of the public offer or parts of the public offer by specific investors, and the description of these investors;
- 3.2.6 Restrictions to stockholders: Communicate if there are stockholders subject to restrictions of stock sale, which discriminates them, and detailing such restrictions;
- 3.2.7 Statement of inadequacy of the investment for certain types of investors, in the event the investment is inadequate for certain types of investors, by specifying them and stating such inadequacy with emphasis;
- 3.2.8 Admission for negotiation on the stock exchange, organized over-the-counter market, or non-organized over-the-counter market; and
- 3.2.9 Clarification on the procedures set forth in arts. 25 to 28 of the CVM Instruction 400 in relation to the eventual modification of the offer, mainly in relation to the effects of the investor's silence.

### 3.3 SECURITIES DISTRIBUTION CONTRACT

- 3.3.1 Specify the conditions of the distribution contract in relation to the placement of the securities with the public and eventual guarantee of subscription rendered by the leader and the participants in the consortium, by specifying the quota of each one, if it is the case, besides other clauses considered relevant for the investor, indicating the place where the contract copy is available for consultation or copy; and
- 3.3.2 Relationship of the issuing company with the distribution leader and coordinators participating in the distribution consortium, such as loans, investments, and other relations eventually existing, including those with financial institutions that have corporate relations with the participants of the consortium; and
- 3.3.3 Exhibit of the Distribution Cost - inform:
  - 3.3.3.1 the percentage in relation to the distribution unit price;
  - 3.3.3.2 the Coordinating Commission;
  - 3.3.3.3 the Placement Commission;

- 3.3.3.4 the Subscription Guarantee Commission;
  - 3.3.3.5 Other Commissions (specify);
  - 3.3.3.6 the Distribution Unit Cost;
  - 3.3.3.7 the Expenses resulting from the Registration; and
  - 3.3.3.8 other related costs.
- 3.4 CONTRACT OF LIQUIDITY GUARANTEE, PRICE STABILIZATION, AND / OR CONTRACT OF SUPPLEMENTARY LOT PLACEMENT OPTION: In case they have been signed, inform their main characteristics, in accordance with the norms issued by the CVM, by indicating the place where a copy of the contract can be obtained.
- 3.5 DESTINATION OF RESOURCES (only applicable to the distribution of securities issued by the Issuer)
- 3.5.1 Clear and objective explanation of the disposition of resources coming from the issuance, as well as its impact on the patrimonial situation and on the income of the issuer;
    - 3.5.1.1 If the resources are direct or indirectly used in the purchase of assets, with the exception of those acquired in the normal course of business, describe briefly these assets and their costs. If they are acquired from listed parties, inform from whom they shall be bought, and how the cost shall be determined;
    - 3.5.1.2 If the resources are used to acquire other businesses, present a brief description of these businesses and the situation of the purchases. If they are acquired from listed parties, inform from whom they shall be bought, and how the cost shall be determined;
    - 3.5.1.3 If a significant part of resources is used for rebating debts, describe the interest rate and term of these debts and, for those incurred from the previous year, present the disposition of those resources, in the terms of items 3.5.1.1 and 3.5.1.2; and
    - 3.5.1.4 In the case of only a part of the resources being obtained through distribution, what other forms of funding are provided for reaching the objective. And in the hypothesis of various objectives and only a part of the resources being obtained, what objectives shall have priority.
  - 3.5.2 Other Sources of Resources - If existing, list other sources of resources that shall have disposition associated to the one that relates to the public distribution; and
  - 3.5.3 Alternative funding sources, in case of partial distribution.

### 3.6 INFORMATION TO BE GIVEN IN THE HYPOTHESIS OF SETTING UP OF A COMPANY:

- 3.6.1 existence or not of authorization for capital increase, regardless of statutory modification;
- 3.6.2 obligations assumed by the founders, contracts signed in the interest of the future company, and the amounts spent and to be spent;
- 3.6.3 the particular advantages the founders or third parties shall have right to, and the provision of the statute project regulating them;
- 3.6.4 governmental authorization for constituting the company, if necessary;
- 3.6.5 institutions authorized to receive the entries;
- 3.6.6 solution provided for the case of subscription excess;
- 3.6.7 term within which the company constitution assembly or the preliminary one shall take place, for the assessment of goods, if it is the case;
- 3.6.8 the name, nationality, marital status, profession, and residence of founders, or, if legal entity, the firm or name, nationality, and headquarters, as well as the number and species of stock that each one subscribes; and
- 3.6.9 the financial underwriter, in whose power the originals of the Prospectus and the statute project shall be deposited, with the documents they mention, to be examined by any interested person.

### 3.7 STUDY OF ECONOMIC-FINANCIAL FEASIBILITY

- 3.7.1 Mandatory for the cases mentioned in the art. 32 of this Instruction and facultative for the remaining hypotheses; and
- 3.7.2 It shall include:
  - 3.7.2.1 analysis of the demand for the main product and / or service lines of the issuer, which represent a substantial percentage of its global volume of income;
  - 3.7.2.2 supply of raw material; and
  - 3.7.2.3 return on investment, by exposing clear and objectively each premise adopted for its elaboration.

## 4. RISK FACTORS

- 4.1 Expose, in order of relevance, the factors related to the issuance, the security, the issuer, the sector of the economy in which it acts or shall act, with its

stockholders and with the macroeconomic environment that can somehow ground the investment decision of a potential investor, being supposed to be considered in the horizon of risk analysis the investment term and the term of the security distributed and the financial culture of the investors receiving the offer.

## **5. FINANCIAL SITUATION**

### **5.1 DISCUSSION AND ANALYSIS OF THE ADMINISTRATION ON THE FINANCIAL STATEMENTS**

5.1.1 The financial situation of the issuer, the alterations in this situation, and the results of each fiscal year for which there was a presentation of financial statements with the end of obtaining the distribution registration shall be discussed, including the causes, which are sufficient for the investor to understand the business of the issuer, and material alterations in each year for each financial statement;

5.1.2 It shall be supplied the information necessary for the investor to understand the financial conditions of the company and its income; and

5.1.3 It shall be discussed and analyzed the capacity of payment of the issuing company in relation to its financial commitments

### **5.2 FINANCIAL STATEMENTS OF THE LAST FISCAL YEAR, QUARTERLY INFORMATION, AND SUBSEQUENT EVENTS**

5.2.1 Financial Statements with the respective opinions of independent auditors, and reports of the management, relative to the three last fiscal years closed;

5.2.2 Last Quarterly Information;

5.2.3 Detail the relevant subsequent events not mentioned in the financial statements and quarterly information.

## **6. INFORMATION RELATED TO THE ISSUING COMPANY**

The updated information consisting of the registration of public company shall be presented, in the form below. If there are third parties rendering guarantee or receiving the resources, also such information related to them shall be presented, with the end of making a risk analysis.

### **6.1 BACKGROUND**

6.1.1 Company name, headquarters, business objectives, foundation date, duration, date of registration at the CVM (if existing) or proof that the registration is being requested;

6.1.2 Relevant events in the development of the issuer activities;

- 6.1.3 Description of the main capital investments and divestments, including participations in other partnerships in the 3 last fiscal years;
  - 6.1.4 Description of the ongoing capital investments and divestments, including the geographical distribution of such investments and the financing method (own resources or from third parties);
  - 6.1.5 Indication of public offers of purchase of stock from the issuer made by third parties, or by the issuer aiming at purchasing stock issued by other companies that occurred in the last and in the current fiscal year, as well as a description of such offers, including the price, conditions, and the result (income);
  - 6.1.6 Events of corporate transformation and / or restructuring occurring in the last 5 years;
  - 6.1.7 Relevant investments in other partnerships;
  - 6.1.8 Identification of relevant contracts celebrated by the company, not directly related to its operational activities; and
  - 6.1.9 Description of public offers of distribution made by the company or by third parties involving securities issued by the company that occurred in the two last or in the current fiscal year, if existing, as well as of the existence of public offers made by the company in relation to stock issued by other company in the same period.
- 6.2 ACTIVITIES - Detailed description, focused on the 3 (three) last fiscal years:
- 6.2.1 of the activities, operations, products, services, business, markets where the company acts, and its subsidiaries, including those still being developed or to be developed, with the detailing of their contribution for the income of the company and their eventual seasonality;
  - 6.2.2 of the influence of raw material and inputs on the activities described in 6.2.1, of eventual volatility in their prices, of the relationship with suppliers, as well as if it is subject to governmental control or regulation, with the indication of the bodies and the respective applicable legislation;
  - 6.2.3 of the influence of intellectual property rights, such as patents, industrial or commercial licenses, marks, or technology transfer contracts in the activities described in 6.2.1;
  - 6.2.4 of the dependency on relevant financing contracts to perform the activities described in 6.2.1;
  - 6.2.5 relevant contracts for the development of the activities described in 6.2.1;

6.2.6 of the commercialization channels used by the company, including the explanation of any special method of sale; and

6.2.7 of the main establishments and assets linked to the activities described in 6.2.1.

### 6.3 ORGANISATIONAL STRUCTURE

6.3.1 If it is the case, describe the economic group of companies in which the company is inserted, the description of relevant share it has in partnerships of this group, and any restructuring operation occurred in the group, in the 3 (three) last fiscal years.

### 6.4 PROPERTY, PLANTS, AND EQUIPMENT

6.4.1 Describe in detail the relevant property, plant and equipment, including those that are object of leasing, by emphasizing the existing expansion plans, their justifications and characteristics, respective previsions of future expenditures and past expenses, as well as the environmental issues related to such assets.

### 6.5 CAPITAL COMPOSITION

6.5.1 Stockholders (description of the stockholders holding more than 5% of the capital, by total participation and by class / species, in terms of quantity and percentage, also if there is limitation or peculiarities related to the exercise of the voting right by such stockholders, even if resulting from stockholder agreements);

6.5.1.1 Indication of relevant alterations in the participation of the control group members, in the 3 last fiscal years.

6.5.2 Treasury Stock - description of the quantity of treasury stock and the policies employed by the administration for trading securities issued by the company itself;

6.5.3 Securities issued by the company (convertible or not);

6.5.3.1 Description, amount, value per stock, situation of payment, authorized capital (and its disposition, if any);

6.5.3.2 Rights, advantages, and restrictions;

6.5.3.3 Indication of the quantity and description of the own stock issued and retained by the company;

6.5.3.4 Dividend policy in the last 5 (five) years, containing the details of the way of payment, prescription, rights in case of non-payment; and

- 6.5.3.5 Description of other securities issued by the company, with the indication of their characteristics.
  - 6.5.4 Stockholder Agreements - detailed description of the clauses consisting of the stockholder agreements registered in the company; and
  - 6.5.5 Transactions with Related Party: describe any relevant operation or business, existing or about to exist, between the company and its related parties, including those related to the rendering of guaranties on both parties in the 3 last fiscal years.
- 6.6 ADMINISTRATION
- 6.6.1 Composition - Name, commercial address, position, date of entrance into office, mandate term and abstract of professional experience of the actual and substitute members of the management board, fiscal council and the board of directors;
    - 6.6.1.1 Indicate if there is any familiar relationship between the managers or between them and a controlling shareholder;
    - 6.6.1.2 Stock direct or indirectly held by the managers, including those resulting from stock option plans, exercised or not, and other securities convertible in stock of the issuer; and
    - 6.6.1.3 Contracts or other relevant obligations existing between the managers and the company - brief description.
  - 6.6.2 Director of Relations with Investors - Name, commercial address, telephone, fax, e-mail address, and site of the company in the Internet;
  - 6.6.3 Remuneration - description of the global remuneration received by the managers in the last fiscal year, including the remuneration resulting from stock option plans; and
  - 6.6.4 Stock Option Plans - brief description, including beneficiaries (if managers) and the indication of conditions, prices, and outstanding option terms and quantity of stock object of exercise in the last and in the current fiscal year.
- 6.7 STAFF
- 6.7.1 Description of the group of employees of the company, in its totality, and by groups, based in the activity performed or by geographic localization, by indicating the average number of employees during or at the end of each one of the 3 (three) last years, including the policies of remuneration and benefits, with the indication of relevant liabilities and labor matters;

- 6.7.2 Description of the relationship between the company and the respective labor unions of its employees; and
  - 6.7.3 Description of Stock Option Plans meant for employees, detailed in the form of item 6.6.4 above, and of other forms of their involvement in the company capital.
- 6.8 LEGAL AND ADMINISTRATIVE CONTINGENCIES
- 6.8.1 Description of the ongoing or potential relevant judicial and administrative contingencies, resulting from practices adopted by the company.
- 6.9 OTHER RELEVANT INFORMATION AND CONTINGENCIES
- 6.9.1 Description of other information that the company considers relevant or of contingencies not included in the previous items.
- 7. REMAINING INFORMATION CONSISTING OF THE FINANCIAL STATEMENTS, ANNUAL INFORMATION, AND QUARTERLY INFORMATION THAT ARE NOT PREVIOUSLY EMPHASIZED IN THE PROSPECTUS.**
- 8. STATEMENT SAYING THAT ANY OTHER INFORMATION OR CLARIFICATION ON THE COMPANY AND THE RELATED DISTRIBUTION CAN BE OBTAINED WITH THE LEADER AND OR THE PARTICIPANTS OF THE CONSORTIUM, AND AT CVM.**
- 9. OTHER DOCUMENTS AND INFORMATION THAT THE CVM CONSIDERS NECESSARY.**

#### **APPENDICES**

- 10. MINUTES OF THE EXTRAORDINARY GENERAL SHAREHOLDERS MEETING OR FROM THE MANAGEMENT BOARD THAT DECIDED ON THE ISSUANCE.**
- 11. UPDATED BY-LAWS OF THE ISSUER.**
- 12. DEBENTURE DEED, IF IT IS THE CASE.**
- 13. IN CASE A SPECIALIZED AGENCY HAS BEEN CONTRACTED FOR CLASSIFYING THE RISK, ENCLOSE THE SUMMARY OR REPORT OF THE CLASSIFICATION.**

NOTE: The presentation of the integral financial statements and documents of periodic information IAN and ITR (items 5.2.1, 5.2.2 and 11) can be waived, as long as all information consisting of the financial statements, the IAN and the ITR are included in the respective sections of the prospectus or, when such sections do not exist, in item 7.

**(Used in Brazil Submission)**

## Appendix II

### **Law no. 6.404 of December 15, 1976 Section 176 and those followings**

#### SECTION II. - Financial Statements

##### General Provisions

Article 176. - At the end of each fiscal year, the corporation, based on its entry files, shall prepare the following financial statements, which shall clearly indicate its assets and liabilities as well as the changes which occurred during the fiscal year:

I - balance sheet;

II - statement of retained earnings;

III - statement of income;

IV - statement of changes in financial position.

Paragraph 1. - The statements for each fiscal year shall be published showing the corresponding amounts of the preceding fiscal year.

Paragraph 2. - Similar accounts may be combined forming groups; small amounts may be aggregated, provided their nature is indicated and they do not exceed one-tenth of the amount of their respective group; however, non-specific headings such as "other accounts" or "miscellaneous accounts" may not be used.

Paragraph 3. - The financial statements shall register the destination of profits, as proposed by the corporation's board, on the assumption that such destination will be approved by the general meeting.

Paragraph 4. - Financial statements shall be supplemented by explanatory notes and other analytical charts or statements necessary to clarify the status of assets, liabilities, and income.

Paragraph 5. - The notes shall indicate:

- (a) the principal evaluation criteria used for assets (especially inventories) and liabilities, for depreciation, amortization, and depletion calculations, for the constitution of provisions or allowances, and for calculating the reflection of unrealized losses of assets;
- (b) investments in other corporations, when considered relevant (article 247, sole paragraph);
- (c) revaluation surpluses (article 182, paragraph 3);
- (d) in rem charges on assets, any guarantees given to third parties, and any contingent liabilities;

- (e) interest rates, maturity dates, and guarantees of long-term liabilities;
- (f) number, types, and classes of shares;
- (g) stock call options granted and exercised during the fiscal year;
- (h) adjustments stemming from previous fiscal years (article 186, paragraph 1);
- (i) any events subsequent to the close of the fiscal year which have or which may have a relevant effect on the financial standing and future income of the corporation.

Paragraph 6. - Private corporations whose net worth on the date of its balance sheet does not exceed R\$ 1,000,000.00 (one million Brazilian reais) shall not be obliged to prepare and publish statements of changes in financial position.

### Bookkeeping

Article 177. - The books of the corporation shall be kept in a permanent form, in accordance with commercial legislation, with this Law, and with generally accepted accounting principles. The corporation shall utilize the accrual accounting method and observe uniformity principles.

Paragraph 1. - The financial statements of a fiscal year in which any relevant changes in accounting methods or criteria occurred shall indicate them in an explanatory note, stressing their effects.

Paragraph 2. - Without prejudice to commercial standards of bookkeeping and to the preparation of financial statements required by this Law, the corporation shall maintain ancillary records in accordance with tax laws or any other special laws relating to the corporation's activities, which may require different accounting methods or criteria or require the preparation of additional financial statements.

Paragraph 3. - The financial statements of publicly held corporations shall also be subject to the rules issued by the CVM and shall be audited by independent auditors registered with the CVM.

Paragraph 4. - The financial statements shall be signed by the officers of the corporation and by legally qualified accountants.

### SECTION III. - The Balance Sheet

#### Groupings

Article 178. - In the balance sheet, the accounts shall be classified according to the assets and liabilities they represent and shall be grouped in order to facilitate the understanding and analysis of the financial standing of the corporation.

Paragraph 1. - The asset accounts, which shall be arranged in decreasing order of the liquidity, shall be classified in the following groupings:

- (a) current assets;
- (b) long-term assets;
- (c) permanent assets, divided into investments, fixed assets, and deferred assets.

Paragraph 2. - Liabilities and Shareholder's Equity accounts shall be classified into the following groupings:

- (a) current liabilities;
- (b) long-term liabilities;
- (c) deferred revenues;
- (d) shareholder's equity, divided into capital stock, capital reserves, revaluation surpluses, profit reserves, and retained earnings or accumulated losses.

Paragraph 3. - Debit and credit balances which the corporation may not offset shall be classified separately.

#### Assets

Article 179. - The accounts shall be classified as follows:

I - under Current Assets: cash, rights receivable up to the subsequent fiscal year, and allocation of resources to pay expenses of the following fiscal year;

II - under Long-Term Assets: rights receivable after the end of the following fiscal year, as well as rights derived from sales, advances, or loans which do not constitute the corporation's normal business, made to associated or controlled companies (article 243), to directors, to shareholders, or to others who otherwise participate in the corporation's profits;

III - under Investments: permanent investments in other companies and rights of any nature not classified under Current Assets and that are not destined to maintain the activity of the corporation;

IV - under Fixed Assets: assets destined to maintain the activities of the corporation, including industrial or commercial property rights;

V - under Deferred Assets: expenses which will contribute to the income of more than one fiscal year, including interest paid or credited to shareholders before the commencement of the corporation's operations.

Sole Paragraph. - In a corporation which has a business operation cycle longer than one fiscal year, classification under Current Assets or Long-Term Assets shall be based on the period of such cycle.

#### Liabilities

Article 180. - Subject to the provisions of the sole paragraph of Article 179, the liabilities of the corporation, including loans to acquire fixed assets, shall be classified under Current Liabilities when they are due by the end of the subsequent fiscal year, and under Long-Term Liabilities when they are due later.

#### Deferred Revenues

Article 181. - Revenues corresponding to future fiscal years shall be classified under deferred revenues, after deduction of the corresponding costs and expenses.

#### Shareholder's Equity

Article 182. - The account referring to capital stock shall disclose the total amount subscribed, from which the unpaid portion shall be deducted, as a contra account.

Paragraph 1. - The following accounts shall be classed as capital reserves:

- (a) Amount received by shareholders in excess of the par value of shares issued (premium on capital stock), as well as the part of the price of the shares with no par value that exceeds the amount intended to form the capital stock, including the proceeds stemming from the conversion of debentures or founder shares;
- (b) proceeds from the sale of founder shares and subscription warrants;
- (c) premiums received from the issue of debentures;
- (d) donations and investment subsidies.

Paragraph 2. - The amount corresponding to the adjustment to inflation of the paid-up capital stock, while it is not yet into capital stock, shall also be recorded as a capital reserve.

Paragraph 3. - Upward appraisals of assets, performed based on the reports mentioned in article 8 and approved by the general meeting, shall be credited in a revaluation surplus account.

Paragraph 4. - The appropriation of retained earnings shall be classified as profit reserves.

Paragraph 5. - Treasury stock shall be shown, in the balance sheet, as a contra account to the shareholder's equity account that records the source of the funds used for its acquisition.

#### Asset Evaluation Criteria

Article 183. - The assets shall be valued in the balance sheet according to the following criteria:

I - rights and any securities not classified as investments: by their acquisition cost or market price, whichever is less; those which have lapsed shall be excluded and an adequate provision made to adjust them to their probable realization value -- the acquisition cost may be increased up to the limit of the market price to record adjustment to inflation, foreign exchange variations, or accrued interest;

II - rights to merchandise and products traded by the corporation, as well as raw materials, work-in-process, and finished goods: by their acquisition or production cost, deducted by a provision or allowance for adjustment to market price, should the latter be lower;

III - investments in other companies, with the exception of the dispositions of articles 248 to 250: by their acquisition cost, deducted by a provision / allowance for probable losses in the realization of their value, should such losses have been proven to be irreversible -- the acquisition cost shall not be modified by reason of receipt, by the corporation, of stock dividends;

IV - all other investments: by their acquisition cost, deducted by a provision / allowance for probable losses in the realization of their value or for adjusting to market price, should it be lower;

V - fixed assets: by their acquisition cost, deducted by the balance of the respective depreciation, amortization, or depletion accounts;

VI - deferred assets: by the amount of the resources allocated, deducted by the balance of the accounts that show their amortization.

Paragraph 1. - For the purposes of this article, market price shall mean:

- (a) for raw materials and inventories: the price through which they may be replaced by purchasing them in the market;
- (b) for goods or rights intended for sale: the net price realized through sale in the market, after deduction of taxes and other expenses necessary for the sale, as well as the profit margin;
- (c) for investments: the net price at which they may be sold to third parties.

Paragraph 2. - Any decrease in the value of fixed assets shall be registered periodically in the following accounts :

- (a) depreciation, when corresponding to a loss in the value of tangible assets due to wear and tear or loss of utility due to use, nature deterioration, or obsolescence;
- (b) amortization, when corresponding to a loss in the value of resources allocated to the acquisition of industrial or commercial property rights and any other rights

whose existence or enjoyment is limited, or which cover property to be utilized during a legally or contractually limited period of time;

- (c) depletion, when corresponding to a loss in value resulting from the exploitation of rights to mineral or forestry resources, or assets applied in such exploitation.

Paragraph 3. - The resources applied to deferred assets shall be amortized from time to time for a period which shall not exceed 10 (ten) years from the beginning of normal operations or from the fiscal year in which the corporation begins to enjoy the benefits which result there from -- the loss of all applied resources shall be registered when the business or activity for which they were intended is abandoned or when it is proved that such activity cannot produce sufficient income to amortize them.

Paragraph 4. - Inventory of fungible merchandise intended for sale may be valued at market price, should this be an accepted accounting practice.

#### Evaluation Criteria of Liabilities

Article 184. - The liabilities shall be evaluated in the balance sheet according to the following criteria:

I - known or estimated liabilities, including income tax, shall be computed at the amount adjusted to the date of the balance sheet;

II - liabilities in foreign currency with a foreign exchange parity clause shall be converted into national currency at the exchange rate prevailing on the date of the balance sheet;

III - liabilities subject to inflation shall be adjusted to the date of the balance sheet.

**Felsberg & Associados**

Felsberg, Pedretti, Mannrich e Aidar Advogados e Consultores Legais

Av. Paulista, 1.294 - 2nd floor - Cerqueira César

Sao Paulo, SP, 01310-915,

Brazil

Tel: +55 11 3141-9100

Fax: +55 11 3141-9150

Email: [mail@felsberg.com.br](mailto:mail@felsberg.com.br)

Website: [www.felsberg.com.br](http://www.felsberg.com.br)

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