

Legal Bulletin
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IOF/FX on Equities Reduced to Zero

On December 1st, 2011, the Ministry of Finance announced a package of measures aimed at stimulating the economy and domestic consumption. Guido Mantega, Brazil's finance minister, stated that this stimulus package was meant to prevent the global crisis from contaminating Brazil.

Among other tax cuts (such as the slashing of taxes on consumer appliances and certain foodstuffs containing wheat by Decree nr. 7,631/2011), Decree nr. 7,632/2011¹ reduced to zero the Tax on Financial Transactions (IOF) levied on foreign exchange transactions (IOF/FX) for the inflow of funds:

- (i) to be invested in variable income (equity) investments at the stock or commodities exchanges (except for transactions with derivatives resulting in predetermined income);
- (ii) for the acquisition of shares in public offerings or other subscriptions, provided that, in both cases, the issuing companies are registered to trade shares on the stock exchange;
- (iii) for the acquisition of quotas of Equity Investment Funds (FIPs), Emerging Companies Investment Funds and of Investment Funds investing in quotas of the previously referred funds²;
- (iv) in simultaneous foreign exchange transactions carried out for the cancelation of depositary receipts and for the resulting funds to be invested on shares that may be traded at the stock exchange;
- (v) in simultaneous foreign exchange transactions carried out for the migration of a direct investment (regulated by Law N. 4,131, of September 3, 1962) to a portfolio investment on shares traded at the stock exchange, as regulated by the National Monetary Council (CMN); and
- (vi) for the acquisition of certain securities³ issued according to Law N. 12,431, of June 24, 2011, which distribute income that may be subject to a zero income tax rate when paid to certain non-resident investors⁴.

The IOF/FX has been previously increased with the purpose of containing the appreciation in value of the Brazilian currency, the "Real". In order to address this issue, Mr. Mantega has been quoted as stating that Brazil is not easing its currency policy, and that if there is any risk of its currency appreciating, the IOF on derivatives (which has also been used to control the appreciation in value of Reais) may be further increased.

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1 Decree N. 7,632/2011 also reduced (from 0.0082% to 0.0068%) the rate of the IOF levied on credits granted to individual debtors.

2 The zero rate also applies to the inflow of funds in simultaneous foreign exchange transactions.

3 Namely: (a) certain long-term debt instruments (maturing in four or more years); (b) quotas of Investment Funds with more than 85% of their portfolios consisting of certain long-term infrastructure debentures ("Long-term Infrastructure Debentures Investment Funds"); and (c) quotas of investment funds with more than 95% of their portfolio invested in quotas of the Long-term Infrastructure Debentures Investment Funds.

4 Non-resident investors who invest in Brazil according to the rules set forth by the CMN, and who are not residents of or domiciled in countries that do not impose income tax or where the maximum income tax rate is lower than 20%.