

# REGULATIONS OF INTEREST TO FOREIGN INVESTORS

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## CVM INSTRUCTION 387, DATED APRIL 28, 2003

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*Establishes standards and procedures to be followed in the securities and exchange transactions on the floor and in electronic trading and registration systems in the stock exchange and in the future and commodities exchange and other provisions.*

**THE CHAIRMAN OF THE SECURITIES COMMISSION - CVM, makes it public that the Board, in a meeting that took place on April 25, 2003 based on letters "a" and "c" item II of article 18 of Law 6,385, dated December 7, 1976, have thereby RESOLVED to issue the following Instruction:**

### **SCOPE AND PURPOSE**

**Article 1 – This Instruction establishes standards and procedures to be followed in securities and exchange transactions on the floor and in electronic trading and registration systems in the stock exchanges and in the future and commodities exchanges.**

### **DEFINITIONS**

**Article 2 - For the effects of this Instruction it is considered:**

**I – Exchange(s): stock exchange(s) and future and commodities exchange(s), indistinctively;**

**II – Securities Brokerage House: a company qualified to trade or register transactions with stocks on its own or on behalf of third parties on the Exchange and on organized counter companies;**

**III – Commodities Brokerage House: a company qualified to negotiate or register transactions with securities traded in the futures and commodities exchange;**

**IV – Brokerage House(s): indistinctively, includes securities brokerage and commodities brokerage houses;**

**V – Special Operator:** a natural person or company bearer of futures and commodities exchange securities, qualified to work on the floor and in the electronic trading and registration systems, trading on his own and on behalf of brokerage houses, authorized by the exchange;

**VI – Organized Counter Companies:** legal person that manages securities electronic trading and registration systems

**VII – Committeeperson or Client:** a natural or legal person, and an entity on behalf of which the securities transactions are carried out;

**VIII – Clearing House:** a house or a service rendered for the register, clearing of operations with securities, integrating the Brazilian Payment System – SPB;

**IX – Clearing House Member or Clearing House Agent:** a legal person, financial institution or similar, responsible before the ones that it render services and before the clearing house for the clearance of transactions with securities under its responsibility;

**X – Order:** act before which the client orders a brokerage house to either buy or sell securities, or register operations, in its name or in the conditions that he specifies;

**XI - Offer:** act before which the brokerage house or special operator divulges or registers the intention to buy or sell securities;

**XII – Participant with Direct Clearance:** financial institution bearer of a title of Clearing House Member that carries out and clears operations either for its own portfolio or for funds that it manages.

## **RULES OF CONDUCT**

**Article 3 – The Exchanges shall establish rules of conduct to be observed by the brokerage houses in the relation with its clients and other market participants, meeting the following principles:**

**I – probity in carrying out activities;**

**II – zeal for the market integrity, including the selection of clients and the requirements for guarantees deposits;**

**III - diligence in the fulfillment of orders and in the specification of committeepersons;**

**IV – diligence in the control of clients' positions in the custody, with the periodic reconciliation between:**

**a) Executed orders;**

**b) Constant positions in statements and abstracts supplied by the entity rendering the custody services; and**

**c) Positions supplied by clearing houses;**

**V – training for the fulfillment of activities;**

**VI – duty to obtain and present to its clients the information needed to the fulfillment of orders, including the risks involved in market transactions;**

**VII – adoption of measures in the sense of avoiding transactions in situations of conflicts of interests and assure an equal treatment to its clients; and**

**VIII – supply its clients, on time, with the documentation of transactions made.**

**Paragraph 1** The rules of conduct treated herein shall be put to the disposal of the clients before the beginning of its operations and obligatorily delivered whenever asked for.

**Paragraph 2** The rules of conduct referred to in this article shall be sent to the CVM with a minimum advance of 30 (thirty) days of its implementation for approval.

**Paragraph 3** The Exchanges are responsible for the auditing of the brokerage houses regarding the compliance with the principles referred to on paragraphs I to VIII of this article.

#### **RESPONSIBLE DIRECTOR**

**Article 4 – The Brokerage Houses shall indicate, to the Exchange to which they are associated and to the CVM, a statutory director, who will be responsible for the compliance with the dispositions herein.**

**Sole paragraph.** At the beginning of their activities, the brokerage houses and the director referred to in the *caput* shall apply all due care and diligence that anyone would do in administering their own businesses, i.e., exercising loyalty with the interests of their clients, avoiding practices that might damage the fiduciary relationship they maintain with their clients and responding promptly to any infractions or irregularities that might be committed under their administration.

***Sole Paragraph of Article 4 amended by CVM Instruction 450, dated March 30, 2007.***

#### **CURRENT ACCOUNTS**

**Article 5 – The Brokerage Houses shall keep registers of all financial operations of its clients' current accounts that cannot be accessed by checks.**

#### **RULES OF ACTION**

**Article 6 – In compliance with the disposition of this Instruction, as well as the standards issued by the Exchanges, the Brokerage Houses and the other participants in the market that act directly on their locations or trading and registration systems and shall establish and submit to the previous approval of the Exchanges, the rules and related parameters of actions, at least:**

**I – to the type of orders, the time of its delivery, issuing form, term of validity, procedures of refusal, registration, fulfillment, distribution and canceling; and**

**II – to the form and the criteria to the compliance with the orders received and the distribution of the transactions done.**

**Paragraph 1** the rules referred in the *caput* of this article shall be available to the clients before the beginning of its operations and delivered whenever requested.

**Paragraph 2** The registering of the orders in the brokerage house shall contain the client's identification that have issued them, and shall have a sequential unified numbering control organized in a chronological way.

**Paragraph 3** The register system set forth on 2 paragraph can be substituted by a recording system that records all the dialogs between the clients, the brokerage house and its floor operators, accompanied of a registration of all the executed orders in the ruling terms to be printed by the Exchanges and subject to the previous approval on the part of the CVM.

**Article 7 – The participant with direct liquidation shall transmit its orders from its own portfolio apart from the orders issued by the funds administrated by it.**

**Sole paragraph.** The participant with direct liquidation shall keep, before the futures and commodities exchange, identification codes to register, separately, the operations done through its own portfolio and the ones by the funds administrated by it.

**Article 8 - Brokerage houses can follow orders for their own portfolio or for portfolios of their clients, being optional, through a specific contract, for them to contract other brokerage houses for its accomplishment, by observing the provisions of articles 9 and**

**12.**

**Paragraph 1** Commodities brokerage houses can contract special operators, through a specific contract, in order to follow orders for their own portfolio or for their clients' portfolios.

**Paragraph 2** If there is competition between orders, the priority for accomplishment should be determined through a chronological criteria, being that orders of clients who are not people entailed to the brokerage house should always have priority in relation to the ones issued by people who are so.

**Paragraph 3** Only orders subject to accomplishment at the moment a business is effected, i.e., those which price specified by the client is compatible with the market price, will compete for their distribution.

#### **REGISTER AND DOCUMENTATION OF CLIENTS IDENTIFICATION AND SPECIAL OPERATORS**

**Article 9 -** Brokerage houses shall register their clients, by keeping them updated.

**Paragraph 1** Brokerage houses shall, also, supply exchanges and clearinghouses, by following a standard defined by them, the basic register data of each client, in a way as to allow their perfect identification and qualification.

**Paragraph 2** It is the responsibility of the participant with direct settlement to maintain the register of funds managed by him/her, in the way set forth in articles. 10, 11 and 12 of this Instruction.

**Art. 10.** The registration referred to in the caput of the previous article shall include, at least, the information provided for in Paragraph 1 of art. 3 of CVM Instruction 301, dated April 16, 1999, except for the hypothesis provided for in art. 12-A.

*Caput of Article 10 amended by CVM Instruction 419, dated May 02, 2005.*

**Paragraph 1** In the case of a quota holder of one or more investment clubs whose consolidated balances of applications, in the same administrator, are inferior to R\$ 10.000,00 (ten thousand Reals), it is allowed the maintenance of a simplified register in the terms defined by the exchange where the club is registered, being the responsibility of the self-regulating body, the creation of control mechanisms to guaranty the fulfilment of the provisions of this paragraph.

**Paragraph 2** The elaboration and maintenance of registers of institutional clients and financial institutions can, through the approval of the CVM, be accomplished in a centralized way by exchanges, entities of the organized OTC market and clearing houses.

**Paragraph 3** In the case of non-resident investors and institutional investors, resident or not, the register shall additionally contain the names of people authorized to issue orders and, depending on the case, the administrators of the institution or those responsible for the administration of the portfolio, as well as the legal representative or the person in charge of the custody of their securities.

**Paragraph 4** Brokerage houses can only alter the address consisting of the register through Express and written order of the client, followed by the correspondent proof of address.

**Paragraph 5** Brokerage houses are allowed to keep the register of their clients with a computerized system, as long as provisions contained in this Instruction are observed.

**Paragraph 6** In case the institution is part of a financial conglomerate, it will be admitted the maintenance of a single register of clients, being allowed the maintenance of complementary information of clients of the brokerage house in its own premises, as long as the provisions contained in this Instruction are observed, and the remote access to register data is assured by electronic media or instantaneous access system, also

when requested by the CVM.

**Paragraph 7** It is understood as single register of clients, the storage of all and any register information or documentation for the use in shared mode among the members of the financial conglomerate.

~~Paragraph 8 Through CVM's previous approval, in the case of special operations in exchange, as considered those preceded by funding of low value pulverized orders by means of bank agencies or in their domestic premises, register data will be filed in the brokerage house or in the distributor, being not necessary, under this hypothesis, the register in exchange systems.~~

~~Paragraph 9 It will be a condition for the exam by CVM of the petition relative to special operations mentioned in the previous paragraph, the prevision in relation to the responsibility and way of compensating clients in the hypothesis of damage resulting from operations.~~

~~Paragraph 10. Operations referred to by paragraphs 8 and 9 will be registered in the exchange where they are made in a special account under the name of the mediating institution.~~

*Paragraphs 8, 9 and 10 of Article 10 revoked by CVM Instruction 454, dated April 30, 2007.*

**Article 11.** The register, or document attached to it, mentioned by the *caput* of art. 9, shall be considered a declaration, dated and signed by the client or, if it is the case, by a duly constituted solicitor, that:

**I** – information supplied for the filling out of register are true;

**II** – he/she is committed to inform, in the term of 10 (ten) days, any alteration that should occur in his/her register data;

**III** – operates on his/her own, and if authorizes or not the transmission of orders by duly identified representative or solicitor;

**IV** – operates through a third part, in the case of administrators of investment funds and of managed portfolios;

**V** – he/she is, or not, a person entailed to the brokerage house, in the terms of art. 15 of this Instruction;

**VI** – he/she is not hindered from operating in the securities market;

**VII** – through express option, if it is the case, his/her orders will be exclusively transmitted in written;

**VIII** – he/she acknowledges the provisions of this Instruction, and of the rules and parameters of performance of the brokerage house;

**IX** – he/she acknowledges the norms related to the guaranty fund, and the operational norms edited by the exchanges and by the clearing house, which shall be available in the pages of the respective institutions in the world computer network; and

**X** – he/she authorizes the brokerage houses, in case there are undecided debts in his/her name, to liquidate, in an exchange or in a clearing house, the contracts, rights and assets acquired on his/her own decision, as well as to execute goods and rights given in guaranty for his/her operations, or that are held by the brokerage company, then applying the result of the sale in the payment of undecided debts, regardless of judicial or extra judicial notification.

**Sole paragraph.** In trading on the secondary market in investment fund quotas, there is an obligation to be previously authorized with the registry, with an own instrument, including a declaration acknowledging the risks involved and the possibility that

negative shareholder's equity in the fund may occur, which would require the additional investment of funds.

*Sole Paragraph of Article 11 added by CVM Instruction 450, dated March 30, 2007.*

**Article 12.** Brokerage houses should institute procedures of control that are adequate to proof the compliance with the provisions of arts. 9 and 10.

**Paragraph 1** Brokerage houses shall keep all documents related to the operations with securities, as well as, when existing, the integrality of recordings mentioned in Paragraph 3 of art. 6 of this Instruction, in its headquarters or in the headquarters of the financial conglomerate they belong to and at the disposal of the CVM, exchanges and clients, for the term of 5 (five) years, to be counted from the date operations are made; it is admitted the presentation, in substitution of the original documents, of the respective images by means of digitalization system.

**Paragraph 2** The CVM may determine the increase of the term provided for in the previous paragraph for those documents and recordings it specifies.

**Art. 12-A.** The brokerage houses may register non-resident investors in a simplified form, according to what is provided for by the standards issued by Stock Exchanges and entities that manage the organized over-the-counter markets, provided that:

**I** – the non-resident investor is client of a foreign intermediary institution, before which it is duly registered according to the legislation in force in its country of origin;

**II** – the intermediary institution referred to in item I assumes, before the brokerage house, the obligation to present, whenever requested, all information required by CVM Instructions that sets forth the registry of investors in the scope of the securities and exchange market, duly updated, as other information required by the Brazilian inspection powers;

**III** – the brokerage house:

a) establishes criteria that allow to assess the level of trustworthiness of the foreign intermediary institution;

b) adopts the necessary measures aiming at assuring that the information of the registry of the client be promptly presented by the foreign institution, always when requested; and

c) assures that the foreign institution adopts adequate practices of identification and registry of clients, according to the legislation in force in the relative country of origin.

**IV** – the country in which the foreign intermediary institution is localized is not considered as a high risk country with regards to money laundering and terrorism financing and is not classified as a non-cooperating country by international bodies, with regards to the fight against torts of this nature; and

**V** – the regulating body of the capital market of the country of origin of the foreign intermediary institution that has entered into a mutual cooperation agreement with the CVM that allows the exchange of financial information of investors.

**Paragraph 1** The standards mentioned in the caput shall contemplate, at least, the following requirements:

**I** – the need to enter into a written agreement between the brokerage houses and the foreign intermediaries, which shall contemplate the following minimum content:

a) declaration of the foreign intermediary company that possess the registry information required by CVM Instructions that provide for the registry of investors in the scope of the securities market and that it assumes the obligation to keep them permanently updated;

**b) requirement that the foreign intermediary company present to the brokerage house or directly to the CVM, in the terms established by the Stock Exchange, by the entities that manage the organized over-the-counter markets or by the CVM complementary registry information of the non-resident investors, duly updated;**

**c) clauses that establish the subjection of the agreement to the Brazilian laws, and the competence of the Judiciary Power of Brazil to have knowledge of any claims filed due to controversies that arise from the agreement, once admitted the existence of an arbitration commitment, that stipulates that the arbitrage shall occur in Brazil; and**

**d) a clause that impose a rescission, in the case of non-compliance of a requirement to supply registry information of non-resident investors by request of the brokerage house, stock exchange, entity that manages the organized over-the counter market, or of a Brazilian public body with inspection powers.**

**II – prohibition for the use of a simplified registry before any brokerage houses for any client that act through foreign intermediaries that might not follow the requirement to supply information on non-resident investors;**

**III – terms and forms of communication, by the brokerage house to the stock exchange or the organized over-the-counter market that it is a member, about the signature, termination or alteration of a contract, as well as the non-compliance of any of the stipulations therein;**

**IV – rules for the deposition of the agreements refereed to on item I by the brokerage house; and**

**V – inclusion of the conformity assessment of the agreements and the compliance, by the brokerage houses of the pertinent standards in periodic auditings performed by the stock exchange or the entity that administrates the organized over-the-counter market in the brokerage houses.**

**Paragraph 2 The Stock Exchanges and the entities that manage the organized over-the-counter markets shall submit the standards set forth in the caput for the approval of the CVM Board of Commissioners before the beginning of its validity.**

**Paragraph 3 The Stock Exchanges and the entities that manage the organized over-the-counter markets shall keep at the disposal of the CVM an updated list of the agreements entered into between foreign intermediary companies and the brokerage houses subject to their self-regulation.**

**Paragraph 4 The content of this article shall be applied, if it is the case, to central depositories, clearing houses and their respective participants, in the relationship with global custodian companies that perform the activity of custody of securities of non-resident investors.**

***Article 12-A added by CVM Instruction 419, dated May 02, 2005.***

## **PROHIBITIONS**

**Article 13. It is prohibited:**

**I – to brokerage houses:**

**a) to use collective current accounts, except for the cases of joint accounts with up to 2 (two) holders;**

**b) to accept or follow orders of clients that are not previously registered; and**

**c) to use, in the special activities of the securities distribution system members, people not belonging to this system, or even to allow the execution of mediation activities or brokerage by people that are not authorized by the CVM for this end;**

**II – to special operators, to follow orders directly issued from brokerage houses clients.**

**Sole paragraph. It is admitted, if dealing with institutional clients or financial institutions, the lack of signature in the register card for up to 20 (twenty) days, to be counted from the first operation ordered by these clients.**

**Article 14. Brokerage houses and remaining securities distribution system members can only accept purchase and selling orders or make transfers of securities transmitted by proxy, if the solicitors are identified in the register documentation as constituted solicitors.**

**Sole paragraph. It will be the responsibility of clients to inform the possible revocation of the mandate.**

#### **OPERATIONS DONE BY ENTAILED PEOPLE AND BY SPECIAL OPERATORS**

**Article 15. People entailed to a given brokerage company can only negotiate securities on their own, direct or indirectly, through the society they are entailed to.**

**Paragraph 1 It will be considered as entailed people:**

**I - administrators, employees, operators, and representatives of the brokerage house;**

**II – autonomous agents;**

**III – remaining professionals who keep, with the brokerage company, a contract of services rendering directly related to the activity of intermediation;**

**IV – partners or stockholders of the brokerage house, natural persons;**

**V – partners, stockholders, and societies directly or indirectly controlled by the brokerage house, legal entities, except financial institutions and institutions similar to them;**

**VI – consort or companion and minor children of people mentioned in items I to IV.**

**Paragraph 2 are equaled to the operations and orders accomplished by people entailed to the brokerage house, for the effects of this Instruction, those related to the brokerage house portfolio.**

**Paragraph 3 People that, in the terms set forth in items II, III, IV and VI of Paragraph 1, are entailed to more than one brokerage house, shall negotiate securities exclusively through one of the brokerage houses they are entailed to.**

**Paragraph 4 It will be also considered as entailed people, investment clubs and funds whose majority of quotas belongs to entailed people who have power to influence the negotiation decisions of the administrator.**

**Article 16. Special operators can negotiate directly in bidding and in electronic trading and registration system, and can only register their operations through the compensation member they are entailed to through contract.**

#### **TRANSFER OF OPERATIONS**

**Article 17. It will be the responsibility of the exchanges, the establishment of rules and procedures for the transfer of operations accomplished in any of their systems.**

**Paragraph 1 Rules mentioned in the *caput* of this article shall set forth, among others, the procedures of constitution of the transfer bond, and the way of identifying and registering operations originated by them.**

**Paragraph 2 Rules mentioned in the *caput* of this article shall be submitted to the CVM for approval, with a minimum of 30 (thirty) days previous from their implementation.**

**Paragraph 3 In the case the CVM does not manifest in the term of 30 (thirty) days from**

the reception of the rules mentioned in the *caput* of this article, they will be considered as approved.

Paragraph 4 In any case, the transfer will be allowed only when there is a specific contract between brokerage houses and, if it is the case, special operators involved.

#### TYPES OF ORDER

Article 18. Exchanges should regulate the types of orders and offers accepted in their premises or negotiation systems, in a specific norm submitted to the CVM previous approval, by observing the provisions of arts. 6 and 8.

Sole paragraph. In case the CVM does not manifest in the term of 30 (thirty) days from the reception of rules mentioned in the *caput* of this article, they will be considered as approved.

#### PAYMENTS AND RECEIVING OF VALUES BY THE BROKERAGE COMPANY

Article 19. Whenever brokerage houses make payments to their clients in relation to operations accomplished, they shall make that the following information consist of the according documents:

I – the number of the current account of the client in the brokerage company or with the intermediary; and

II – when in check, the numbers of the current account and the check, its value, name(s) of beneficiary(ies), drawer, and withdrawn bank, with indication of the agency and stripes saying: "exclusively for the credit of the account of the original favored", and annulling the "at your order" clause.

Sole paragraph. The provisions of the *caput* of this article are applied, in what applicable, to the cases of receiving, by the brokerage house, of any values from its clients.

#### SELF-REGULATING PROCEDURES

Article 20. It is the responsibility of the exchanges, as auxiliary bodies of the CVM, to inspect the activities of their members, and of establishing the complementary standards needed to the compliance with what is provided in this Instruction.

Paragraph1 Exchanges will keep at the disposal of the CVM data and information obtained through the activities of inspection developed by them.

Paragraph2 Whenever any of the entities mentioned in the *caput* of this article, in the exercise of self-regulation, identifies the practice, by any people or entity submitted to this jurisdiction, of illicit acts, as well as the existence of irregularities, the CVM should be immediately informed, also in relation to the arrangements being made.

Paragraph3 Whenever any of the entities mentioned in the *caput* of this article suspects of the practice of illicit acts, or of the existence of irregularities involving a person or entity that is not submitted to its jurisdiction, it shall immediately communicate the CVM of its suspicions.

#### APPLICATION TO OTHER ENTITIES

Article 21. Provisions consisting of this Instruction are applied, in what applicable, to the entities of organized counter, to the associates of commodity and future exchanges, as well as to the remaining integrants of the system of distribution of securities, and to the institutions authorized to render services of registration, clearing, liquidation or custody of securities.

#### FINAL PROVISIONS

Article 22. Exchanges, organized counter entities, member societies of exchanges, as

well as the remaining integrants of the system of distribution of securities shall adapt to the precepts of this Instruction, in the following terms:

**I – exchanges will have 60 (sixty) days, counted from the validation of this Instruction, to send to the CVM the rules provided for in arts. 3; Paragraph 3 of art. 6, and arts. 17 and 18, in order to be adapted to the provisions of art.20, Paragraph 1, as well as to determine the complementary norms for this Instruction;**

**II – organized counter entities will have 120 (one hundred and twenty) days, counted from the validation of this Instruction, to send to the CVM the rules provided for in arts. 3, 17, 18, and to adapt to the provision of Paragraph1 of art. 20, as well as to determine the complementary norms for this Instruction; and**

**III – brokerage houses, special operators, remaining participants who directly act in the premises or systems of negotiation and register of operations and the remaining integrants of the system of distribution of securities will have 60 (sixty) days, counted from the date of approval by the CVM of actuation rules, to elaborate the rules provided for in art. 6, and to adapt to the provisions of arts. 7, 8, 9 and 10 of this Instruction.**

**Sole paragraph. While the rules mentioned by items I, II and III are not approved by exchanges, by brokerage houses, and by the CVM, the provisions contained in CVM Instruction 220 of September 15, 1994, shall be observed.**

**Article 23. It is considered as serious infraction, for the effect of the provisions in Paragraph 3 of art. 11 of Law n 6;385/76, the infraction to norms contained in arts. 3 ; 4 ; 5 ; 6, 7 ; 8 ; 13; 14; 15; 17; 19; 20 and 22.**

**Article 24. Non-compliance of the provisions of arts. 9, 10, 11 and 12 constitutes hypothesis of infraction of objective nature, subject to summary rite of administrative process.**

**Article 25. CVM Instruction 382, dated of January 28, 2003, CVM Instruction 383, dated February 3, 2003, and CVM Instruction 385, dated March 25, 2003 are revoked.**

**Article 26. This Instruction will be valid from the date it is published in the Diário Oficial da União (Official Gazette).**

*Original signed by*

**LUIZ LEONARDO CANTIDIANO**

**President**