

IMPORTANT NOTICE

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On securities analysts

The chairperson of the COMISSÃO DE VALORES MOBILIÁRIOS – CVM informs that the Board of Commissioners, in its meeting dated 22 December 2009, considering the provisions established by articles 1-VIII, 8-I, 8-III, 18-I-b and 27 of Law No. 6385, dated 7 December 1976, approved the following Instruction:

Securities¹ Analysts

Article 1 – A securities analyst is defined as the natural person who professionally prepares analysis reports directed to publication, disclosure or distribution to third parties, even if restricted to clients.

§ 1 – For the purposes of the present Instruction, the term “analysis reports” means any texts, follow-up reports, studies or analyses about specific securities or securities issuers that may assist or influence the decisions of investors.

§ 2 – Public addresses, lectures, presentations, meetings, conference calls or any other non-written means whose content is typical of analysis reports are all considered equivalent to analysis reports for the purposes of this Instruction.

§ 3 – This Instruction does not apply to natural persons or firms that perform risk rating activities.

Article 2 – The activity of securities analysts may be performed in the following categories:

I – autonomous;

II – associated with an entity part of the securities distribution system or to a CVM-authorized portfolio manager or securities consultant; or

III – associated with a legal person whose bylaws establish that its exclusive objective is to perform securities analyses.

Sole paragraph – For the purposes of article 9-I-f of Law 6385/76, the legal person referred to in item III above is considered equivalent to a securities analyst.

Article 3 – Securities analysts shall act with integrity, good faith and ethics, continuously employing all due care and diligence expected from a professional in his/her standing.

Article 4 – Securities analysts are prohibited from:

I – issuing analysis reports aiming at obtaining, for him-/herself or third parties, undue benefits or advantages;

II – omitting information about conflicts of interest;

III – trading, directly or indirectly, in his/her own name or in the name of third parties, with securities or derivatives thereupon covered in analysis reports authored by him/her, for 30 (thirty) days before or 5 (five) days after the disclosure of the analysis report about such securities or derivatives, or about their issuer; and

IV – trading, directly or indirectly, in his/her own name or in the name of third parties, with securities or derivatives thereupon mentioned in analysis reports authored by him/her, contrary to the recommendations or conclusions expressed in said reports for:

1. 6 (six) months after the date the report was disclosed; or
2. until the disclosure of a new report on the same issuer or security;

Sole paragraph – The matters referred to in items III and IV above do not apply to trades with investment fund units, except if:

I – the analyst is able to influence, directly or indirectly, the relevant fund's administration or its asset management; or

II – the fund concentrates its investments in sectors or companies covered by reports prepared by the relevant analyst.

Accreditation and Accrediting Entities

Article 5 – Accreditation is mandatory for:

I – autonomous analysts; and

II – analysts responsible for reports, when associated with entities or persons referred to by article 2-II and 2-III.

Article 6 – The accreditation of securities analysts must be carried out by entities authorized by the CVM.

Sole paragraph – The CVM will only authorize SROs to perform the accreditation if they:

I – maintain proper structure and technical capability for the fulfillment of the obligations established by this Instruction;

II – have an independent and technically capable self-regulatory structure.

Article 7 – Accrediting entities shall:

I – adopt a professional conduct code;

II – enforce that code;

III – apply sanctions in the event of violations;

IV – assess, by means of technical qualification and ethics exams, if candidates are capable of performing the activities of an analyst;

V – institute a continued education program;

VI – maintain, for at least 5 (five) years, all documents that prove compliance with the requirements of this Instruction;

VII – keep the records of analysts up to date; and

VIII – make the list of their accredited analysts publicly available on the Internet.

Sole paragraph – The CVM shall pre-approve:

I – the professional conduct code and any amendments thereafter;

II – the content of technical and ethics exams applied by the accrediting entity; and

III – the continued education program.

Article 8 – The entities and legal persons referred to in articles 2-II and 2-III may request that accrediting entities provide updated record excerpts from their files, covering analysts presently associated with them or those undergoing selection procedures for prospective service, which may contain register data and/or sanctions applied, if any, 5 (five) years prior to the request.

Article 9 – The professional conduct code shall contain provisions at least about:

I – potential situations of conflicts of interest;

II – commitment to obtain truthful and appropriate information to be used in analysis, recommendations and presentations made by the analyst;

III – duty of independence, including in relation to the person or institution with which he/she is associated, if applicable;

IV – duty to comply with this Instruction and other CVM regulation; and

V – sanctions for non-compliance of the code.

Article 10 – To grant the accreditation referred to in article 6, the accrediting entity shall require at least the following prerequisites:

I – conclusion of an undergraduate degree;

II – passing of technical qualification exams approved by the CVM; and

III – unconditional adherence to the professional conduct code.

Sole paragraph. Any person convicted of the following crimes may not be accredited: bankruptcy crimes; nonfeasance in office, active or passive bribery; graft, embezzlement, bribery and corruption in the exercise of a public function; money laundering; asset, right or cash concealment; crimes against people's savings, the economy, against consumer relations, the financial system, public property, public faith, or a crime whose penalty, given in an unappealable judicial decision, prohibits admittance to public employment, except in the event of rehabilitation.

Article 11 – Accreditation entities shall forward to the CVM:

I – immediately: information about indications of serious transgressions of CVM regulation;

II – by the fifth day of the month following each quarter:

1. report on possible non-compliance of statutes or regulation, covering their efforts to verify appropriateness of conduct, name and personal data of those involved, regardless of the latter being accredited or not, as well as measures taken to curb improper practice; and
2. report on possible non-compliance of the professional conduct code, covering the analysts being probed, the scope of work performed, identified wrongdoings, penalties applied and other measures taken;

III – by January 31st of each year:

1. accountability report covering the persons responsible for each of the main duties established by this Instruction;
2. report on proposed actions for the subsequent year.

IV – whenever requested: documents and information referred to in articles 7-VI and 7-VII.

Institutions with which Analysts are associated

Article 12 – The persons and entities referred to in articles 2-II and 2-III shall:

I – supervise the professional activities of associated analysts to ensure compliance with this Instruction;

II – develop and implement rules, procedures and internal controls aimed at:

1. ensuring that analysts be independent;
2. preventing their commercial interests, and those of their clients, from influencing the work of analysts;
3. identifying, managing and eliminating potential conflicts of interests that may affect the neutrality of analysts and their analysis reports; and
4. assuring that the provisions of articles 15 to 20 be complied with in all published, disclosed or distributed analysis reports;

III – ensure that associated professionals observe all rules resulting from item II above;

IV – publish the rules resulting from item II on the Internet, as well as all amendments and updates;

V – immediately inform the CVM about any conduct of associated analysts that may indicate transgressions of CVM regulation;

VI – immediately inform accrediting entities about any breaches to the professional conduct code by analysts accredited by those entities;

VII – physically segregate the facilities where analysis teams develop their activities from those in which other activities take place;

VIII – indicate a person to be responsible for the implementation of, and compliance with, items I to VII above, as well as disclose his/her name and contact details on the relevant homepage; and

IX – provide to accreditation entities full access to the facilities, files and documents related to rules, procedures and internal controls regarding compliance with this Instruction, in order to enable entities to fulfill their inspection functions.

§ 1 – The organizational structure of the persons and entities referred to in articles 2-II and 2-III shall not permit that an analyst be supervised by an individual whose tasks are potentially incompatible with the unbiased nature of securities analysts' opinions or who otherwise has any influence on the content of analysis reports or on the compensation of the analyst.

§ 2 – The persons and entities referred to in articles 2-II and 2-III shall arrange remuneration systems for analysts that safeguard their independence.

Article 13 – The rules, procedures and internal controls mentioned in article 12-II above shall establish, at least:

I – means for the identification of conflicts of interest;

II – means for managing conflicts of interest; and

III – types and modes of contact that analysts may have with analyzed issuers.

Article 14 – Analysis teams of persons and entities referred to in articles 2-II and 2-III shall be formed by, at least:

I - 30% of accredited analysts, until December 31, 2010;

II - 50% of accredited analysts, until December 31, 2011; and

III - 70% of accredited analysts, until December 31, 2012;

§ 1 – The persons and entities referred to in articles 2-II and 2-III shall inform the CVM about non-conformity with the above within 15 days, along with an explanation.

§ 2 – The persons and entities referred to in articles 2-II and 2-III shall rectify the above non-conformity within 180 days.

§ 3 – Rectification shall be informed to the CVM within 15 days.

Analysis Reports

Article 15 – Analysis reports shall be prepared in a plain and objective manner, with a clear segregation between factual data and interpretations, projections, estimates and opinions.

§ 1 – Whenever possible and appropriate, the sources of factual data should be indicated.

§ 2 – Projections and estimates shall be supplemented with the adopted premises and methodology.

Article 16 – Analysis reports shall be signed by at least one accredited securities analyst

(article 6).

Sole Paragraph – Reports must clearly identify the principal accredited analyst responsible for the report's content and for compliance with this Instruction's provisions, without prejudice to any accountability of other analysts who co-authored the report.

Article 17 – Analysts must include in their reports, in a clear and visible manner, statements:

I – asserting that recommendations indicate exclusively their personal opinions and that reports have been prepared independently, including of the person or entity with which they are associated;

II – informing investors of any circumstances that affect or may affect their independence and/or any situation that poses or may pose conflicts of interest, regarding the principal analyst or other analysts involved in the preparation of the report. Examples include:

1. Relation or connection of analysts with a natural person who is employed by the analyzed securities issuer (in this case a description of the connection is required);
2. Analysts, their spouses or partners, directly or indirectly holding securities analyzed by the report;
3. Analysts, their spouses or partners, directly or indirectly buying or selling, or intermediating transaction with, the securities analyzed by the report;
4. Analysts, their spouses or partners, directly or indirectly, having any financial interest regarding the analyzed issuer, except for the provisions mentioned in sole paragraph of article 4;
5. Remuneration of analysts being, directly or indirectly, influenced by revenues arising from financial operations performed by persons with which they are associated.

§ 1 – Analysts must report on the issues listed in item II above when participating in public presentations, meetings of conference calls in which their reports are discussed or whose content is typical of analysis reports.

§ 2 – Paragraph 1 above does not apply to:

I – Meetings with only one client or investor; or

II – Phone calls the analyst makes with only one client or investor.

Article 18 – Whenever applicable, the persons and entities referred to in articles 2-II and 2-III shall make a clear and highlighted statement in the analysis reports they publish, disclose or otherwise distribute, mentioning any circumstances that affect or may affect the unbiased nature of analysis reports or that may pose conflicts of interest.

§ 1 – For the purposes of this article, examples of conflicts of interest include circumstances where the persons and entities above, their affiliates, parents or jointly-owned companies:

I – hold significant interest in securities issuers included in analysis reports, or circumstances where analyzed issuers, their affiliates, parents or jointly-owned companies hold significant interest in the persons and entities above, their affiliates, parents or jointly-owned companies;

II – have significant financial or commercial interests regarding the issuers or securities comprised in analysis reports;

III – are involved in the purchase, sale or intermediation of securities comprised in analysis reports;

IV – are compensated for services provided to the issuers comprised in analysis reports or their associated persons.

§ 2 – Analysts associated with persons and entities referred to in articles 2-II and 2-III shall report on the issues mentioned on the *caput* above when participating in public presentations, meetings of conference calls in which their reports are discussed or whose content is typical of analysis reports.

§ 3 – The provisions of § 2 above do not apply to:

I – Meetings with only one client or investor; or

II – Phone calls the analyst makes with only one client or investor.

Article 19 – Autonomous analysts and the persons and entities referred to in articles 2-II and 2-III shall:

I – forward their analysis reports to the accrediting entity within 3 days of their distribution;

II – maintain their analysis reports for at least 5 years after their distribution.

Article 20 – When reports prepared by foreign analysts are distributed in Brazil, concerning issuers of securities traded in Brazil or sales efforts in Brazil regarding such securities, the person in charge of the distribution shall obtain the statements referred to in article 17 and make the statements mentioned by article 18.

Sole Paragraph – Analysis reports prepared by foreign analysts are exempted from the requirements indicated in article 16.

Sanctions

Article 21 – For the purposes of article 11§3 of Law 6385/76, the following are considered as serious violations:

- I – non-compliance with the prohibitions established by article 4;
- II – non-compliance with the obligations established by articles 7, 11 and 12;
- III – omitting or providing false information to fulfill requirements of articles 17 and 18.

Final Provisions

Article 22 – CVM Instructions Nos. 388 and 430 are hereby repealed.

Article 23 – All registration records obtained through CVM Instruction No. 388 are hereby canceled.

Article 24 – This Instruction comes into force in October 2010.

Article 25 – The persons and entities referred to in articles 2-II and 2-III shall adjust to the requirements of article 12, items II to IV, until 1 January 2011.

Original signed by
MARIA HELENA DOS SANTOS FERNANDES DE SANTANA
CVM Chair

¹ The definition of securities established by article 2 of the Securities Law (No. 6385/76) includes derivatives.

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