CAPITAL MARKETS

CLIENT ALERT

JUNE / 2019

CVM ISSUES RULING No. 607, WITH NEW RULES ON SANCTIONING ADMINISTRATIVE PROCEEDINGS

The Brazilian Securities and Exchange Commission (CVM) enacted on June 17, 2019 the Ruling No. 607 ("ICVM 607"), establishing new rules in relation to sanctioning administrative proceedings.

The ICVM 607 incorporates the new rules of the Brazilian Federal Law No. 13,506, enacted on November 13, 2017, which strengthened CVM, by means of increasing its power to determine administrative sanctions. The ICVM 607 also seeks to modernize the procedures to be observed within the scope of CVM's proceedings.

Among the main innovations of the ICVM 607, it is worth mentioning the regulation of the Supervisory Agreement (*Acordo de Supervisão*), a sort of "whistleblower" agreement, which may be agreed by a perpetrator with CVM in exchange for extinction or reduction of administrative sanctions.

It is also worth mentioning the implementation of more objective criteria for determination of fines, which will consider limits for base penalty amounts, in addition to aggravating and/or mitigating circumstances, as well as causes for reduction of sanction, as established in the ICVM 607.

In addition, other relevant innovations are:

1. Citations and subpoenas may be carried out by electronic means;
2. The procedural deadlines shall only take business days into account;
3. CVM Commissioners will be able to participate in hearings via videoconference;
4. In the event of a draw in a hearing, the most favorable position in relation to the accused party shall prevail; and
5. CVM may cumulatively apply different sanctions for one single offense; on the other hand, administrative sanctions may be reduced in case the financial damages caused by the offender are fully indemnified before CVM's final decision.

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The new rules established by ICVM 607 will become effective on September 1, 2019.

Our Firm has a relevant role and experience with respect to sanctioning administrative proceedings before conducted by CVM. We actively participated in the public hearing which resulted in the issuance of ICVM 607.

We are at your disposal if you need any guidance on the subject.

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