

22 de setembro de 2020
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EXTERNAL COMMUNICATION

To: B3's Market Participants – BM&FBOVESPA Segment

Ref.: **Risk-Based Approach (RBA) and Simplified Registration of Nonresident Investors (NRI) – Minimum requirements observed by BSM in surveillance regarding CVM Instruction 617/2019**

By request of the BSM Market Supervision (BSM), B3 publishes the Guidance on the minimum elements regarding the Risk-Based Approach (RBA) and Simplified Registration of Nonresident Investors (NRI) in the context of CVM Instruction 617/2019.

Further clarification can be obtained by calling + 55 11 2565-6074/6144 or emailing auditoria@bsmsupervisao.com.br/bsm@bsmsupervisao.com.br. All the related documents are available in <https://www.bsmsupervisao.com.br>.

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Chief Executive Officer

September 21, 2020
004/2020-DAR-BSM

EXTERNAL COMMUNICATION

B3's Market Participants – BM&FBOVESPA segment

Re: Guidance on the Minimum Elements Observed by BSM in Surveillance regarding the Risk-Based Approach (RBI) and Simplified Registration of Nonresident Investors (NRI) in the Context of CVM Instruction 617, dated December 5, 2019 (CVM Instruction 617/2019).

1. In the 2019-2020 Risk Based Supervision (RBS) Biennial Plan, the Securities and Exchange Commission of Brazil (CVM) prioritized risk event 2.3¹, which deals with general failures in the intermediaries' process for managing the risk of money laundering and financing of terrorism (ML/FT), with simplified registration of nonresident investors (NRI) highlighted, especially in those situations where the information necessary for full knowledge of the NRI was not provided by the foreign intermediary.
2. In those circumstances, it was the responsibility of BSM Market Supervision (BSM) to monitor the Participants in the markets operated by B3 (Participants), in order to evaluate compliance with the rules relating to the Participants' Anti Money Laundering and Combating the Financing of Terrorism (AML/CFT).

¹ 2019-2020 RBS Biennial Plan – Risk Event 2.3: General failures in MLP risk management by the intermediaries. When drafting this plan, the SMI did not have robust statistics about this risk event. From conclusions drawn, SMI considered this risk event priority, to which end it will adopt surveillance actions to mitigate associated risk, with an emphasis on simplified registration of nonresident investors in those circumstances in which the foreign intermediary has not provided the necessary information for full knowledge of the nonresident investor.

3. To establish the necessary rules and regulations to support the performance of its functions, as defined in its Corporate Bylaws² and in CVM Instruction 461, dated October 23, 2007³, BSM has the present guidance for the Participants about the RBA and NRI simplified registration (Guidance), in the form of a surveillance rule, about the diligence expected in relation to compliance with CVM Instruction 617/2019.

4. In the Guidance, BSM consolidated recommendations for Participants in the markets under its supervision, regarding the minimum requirements that it will examine in the RBA, based on the requirements of CVM Instruction 617/2019. In this way, the Guidance details a series of procedures and definitions for implementation of the RBA, contributing to removing uncertainties about the forms that CVM and BSM consider adequate for compliance with the AML/CFT regulations.

5. Section I of the Guidance looks at the RBA in a broad sense, applicable to all the Participants' Clients. Section II sets out the minimum elements that BSM expects in the RBA as regards Nonresident Investor (NRI) simplified registration.

6. To obtain the market's opinion on the main points of the Guidance, the matter was previously submitted to the BSM Market Advisory Committee and from this a Working Group was created, together with B3 Participants and the BSM Supervisory Board. The purpose of this initiative was to allow BSM to draft the Guidance in line with the Participants' processes and with the objectives of CVM Instruction 617/2019. In this way, the Guidance eliminates uncertainties about forms considered appropriate for compliance with AML/CFT regulations, thus granting

² BSM Market Supervision Bylaws available at <https://www.bsmsupervisao.com.br/assets/file/leis-normas-regras/BSM-Estatuto-Social-Agos2020.pdf>: **Art. 3** – BSM, pursuant to the provisions of the pertinent regulations has as its corporate purpose: [...] **X** – to establish the rules and regulations necessary for the performance of its functions

³ Subparagraphs I to III of Art. 43 of CVM Instruction 461, dated October 23, 2007.

transparency in regard to the objectives of the Surveillance of Participants performed by BSM, reducing the monitoring cost and providing regulatory effectiveness.

7. The Guidance is not intended to substitute or exhaust determinations contained in CVM Instruction 617/2019 or other specific guidelines, with the provisions contained therein aimed at settling the market's main questions about the subject, without prejudicing what is set forth in the regulations.

8. Considering that CVM Instruction 617/2019 will come into effect on October 1, 2020 and that there is information related to the Participant's Client base that needs to be adapted to the requirements of the new rule, the adaptation criteria described below shall be used, for surveillance purposes:

(i) For client registration adaptation purposes:

(i.1) Lower risk clients, according to the Participant's classification: must have their registrations adapted in accordance with the periodicity determined in the AML/CFT Policy, complying with the five-year deadline established in art. 4, subparagraph III of CVM Instruction 617/19, counted as of the registration date or the last registration update;

(i.2) Higher risk clients, according to the Participant's classification: must have their registrations adapted in accordance with the periodicity determined in the AML/CFT Policy, complying with the 24-month deadline established in CVM Instruction 301/99⁴, counted as of

⁴ Art. 3 Pursuant to the provisions of art. 10 subparagraph I of Law 9.613/98, the persons mentioned in art. 2 of this Instruction will identify their Clients and maintain their registration updated. Paragraph 2 The persons that are the subject of art. 2 must update the registration data of active Clients in intervals of no more than 24 months.

the registration date or the last registration update;

- (ii) For risk classification purposes, the Participant must classify the risk of the Clients, products, services and distribution channels, as determined by art. 5, subparagraph II of CVM Instruction 617/2019, based on the existing information, observing the 90-day deadline counted as of the date that CVM Instruction 617/2019 comes into effect.

9. The CVM validated the Guidance and the timetable contained in item 8 of this External Communication via Letter 94/2020/CVM/SMI, dated September 18, 2020.

10. BSM's surveillance activity regarding these new rules begins immediately, with surveillance of the Participants' adaptation timetable, which must be sent to BSM by October 1, 2020, extendable by submitting a formal and justified request. The documents to be submitted to BSM must contain:

- (i) The AML/CFT Policy of the Participant (Articles 4 and 7 of CVM Instruction 617/2019);
- (ii) The Participant's RBA (Articles 5, 7, 11, 13, 15, 16, 17, 18, 27 and 28 of CVM Instruction 617/2019, including:
 - (a) a description of the governance structure and respective roles and responsibilities regarding the definition and implementation of an RBA;
 - (b) in the case of Participants that belong to a financial conglomerate, a description of the information exchange mechanisms between their internal control areas to assure compliance with the obligations established in CVM Instruction 617/2019;

- (c) a description of the risks considered in the Participant's RBA;
 - (d) a list of all the products, services, distribution channels and trading and registration environments in which the Participant operates, with the respective risk classifications;
 - (e) date on which the RBA comes into effect.
- (iii) Know your Client procedures, containing:
- (a) a detailed description of the clients' risk classification criteria and the classification review and update procedures;
 - (b) a description of the criteria and periodicity for registration update of the clients, according to the risk classification;
 - (c) a description of the specific diligence for clients that are politically exposed persons and nonprofit organizations;
 - (d) a description of the surveillance of transactions, clients or assets related to sanctions imposed by the UN Security Council;
 - (e) a description of the diligence adopted by the Participant to identify the beneficiary owner;
 - (f) a description of the treatment of the situations in which it is not possible to obtain registration information and/or identify the beneficiary owner;
- (iv) If the Participant uses NRI simplified registration:
- (a) a description of the treatment of situations in which it is not possible to obtain registration information (especially qualification and financial and financial and asset status situation) and/or identify the end beneficiary with the foreign intermediary institution;

- (b) any use of an RBA of third parties (for example, of the foreign intermediary institution or of the clients' manager) for risk classification of nonresident investor clients;
- (c) in the case of a trust or similar vehicle, a description of the diligence for identification of the following figures: settlor, protector, curator or trustee and beneficiary of the trust (as defined in article 15 of CVM Instruction 617/2019);
- (v) Timetable of the risk classification of Clients and of the products, services, distribution channels and trading and registration environments in which the Participants operate, based on the existing information, as established in item 8 (ii) of this External Communication;
- (vi) Timetable of the registration adaptation of the Participant's active Clients, according to the low, medium and high-risk classification, as established in item 8(i) of this External Communication.

11. As of the publication of this External Communication, BSM will appraise the information that the Participants submit about the implementation of processes and controls required by CVM Instruction 617/2019, which will initiate surveillance activity into the matter. Then BSM will define, together with the market, the surveillance agenda of the Participants, to be executed as of 2021.

12. This External Communication and its respective annexes will also be published in English. Attached to this document are:

- Annex I – Market Guidance.
- Annex II – Consultation with CVM on adapting the content of the Guidance and of the adaptation timetable presented by BSM, for surveillance purposes, submitted via Letter OF/BSM/DAR-3005/2020, dated September 4, 2020.

- Annex III – CVM's answer to Letter OF/BSM/DAR-3005/2020, dated September 4, 2020, sent to BSM via Letter 94/2020/CVM/SMI, dated September 18, 2020.

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Annex I

MARKET GUIDANCE

The purpose of this note (Guidance) is to set out the minimum elements that BSM Market Supervision (BSM) will consider when monitoring Participants in the markets operated by B3 (Participants) in regard to the Risk-Based Approach (RBA), compliance that became required in Securities and Exchange Commission of Brazil (CVM) Instruction 617, dated December 5, 2019 (CVM Instruction 617/2019).

As set forth in CVM Instruction 617/2019 and the Explanatory Note that accompanied its publication (Explanatory Note), the RBA is the *"main tool for governance of anti-money laundering and combatting the financing of terrorism (AML/CFT)"*. From this stems, on the part of the regulated agents, including those who operate in the intermediation of securities, the obligation of: (i) structuring a AML/CFT policy; (ii) periodically drafting internal risk assessment (Internal Risk Assessment); and (iii) reformulating rules, procedures and internal controls.

This Guidance does not intend to substitute determinations contained in CVM Instruction 617/2019 or other specific guidelines, with application of the provisions contained herein conditioned to analysis of the real situations of each Participant. In this sense, the Guidance, validated by CVM, in accordance with Letter OF/BSM/DAR-3005/2020, will detail a set of procedures and provisions that exemplify actions for the implementation of the RBA that is the subject of CVM Instruction 617/2019, helping to reduce uncertainties about what CVM and BSM consider appropriate forms of compliance with the AML/CFT regulations.

It should be noted first that the nature of due diligence is not a static process of pre-determined items, but an interactive, dynamic, and best-efforts exercise. This present Guidance consolidates BSM guidelines to Participants regarding AML/CFT,

in the context of CVM Instruction 617/2019, based on the successful experiences observed by BSM in its surveillance activity.

Section I of this Guidance will approach the RBA in a broad way, applicable to all the Participants' Clients. Section II will set out the minimum elements that BSM expects in the RBA regarding simplified registration of the Nonresident Investor (NRI).

SECTION I – RISK-BASED APPROACH

1. RBA CONCEPT

1. CVM Instruction 617/2019, which addresses Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT) in the scope of the securities market, presents innovations based on best practices in the world's major markets, considering in particular the recommendations of the Financial Action Task Force (FATF) against money laundering and terrorist financing.

2. CVM Instruction 617/2019 incorporates the RBA methodology recommended by the FATF and other international regulatory bodies, in Brazilian regulation about AML/CFT in securities markets.

3. In the performance of its responsibilities⁵, BSM gathered in this Guidance recommendations for the Participants in the markets under its supervision, about the minimum requirements that it will examine in the RBA, pursuant to the requirements of CVM Instruction 617/2019.

⁵ As set forth in subparagraphs I to III of Art. 43 of CVM Instruction 461, dated October 23, 2007, and in subparagraph X of Art 3 of the Corporate Bylaws of BSM Market Supervision (BSM).

4. For BSM, the RBA is the main AML/CFT governance framework and consists in a methodology that optimizes human, material and Participants' information resources, thus allowing efficient management of the activities developed in the identification, monitoring, comprehension, analysis mitigation of the ML/FT risks.

5. This risk management methodology allows the Participant to distribute efforts efficiently. This is because the RBA demands that the Participant identify and understand the risks inherent to its activities, in accordance with its specific circumstances, allowing to work effectively to mitigate them, allocating more or less resources according to the situations that present higher or lower risk level.

1.1. CLIENT DEFINITION

6. Mentions of "Client" in this Guidance refer to the individual or corporation, investment fund, investment club or to the NRI in whose name transactions are executed with securities⁶. The NRI may also be an individual or corporation, investment fund or investment vehicle or body incorporated in any way accepted in its jurisdiction of origin.

7. The Participant establishes a relationship with the Client for the purposes of providing the securities intermediation service. The trustees and fund managers represent the Clients, but are not themselves Clients of the Participants, but rather bodies that are part of the Participant's chain of relationship with the Client, as they also provide services for the Clients.

8. The same logic applies for the NRI Client, including when the simplified registration mode is used. The relationship established between the Participant and the NRI Clients shall be comprised of representatives of these (financial institutions, managers or other entities), but the legal relationship of securities intermediation

⁶As set forth in Art. 1, subparagraph III, of CVM 505 Instruction, dated September 27, 2011.

service provision will not be established with these representatives, but rather with the NRI Client.

9. In this way, the obligations of CVM Instruction 617/2019 pertaining to the processes of registration and “Know your Client”, surveillance and risk classification have Clients as their subject, whether local or NRI, and not fund managers or other providers of services that are part of the Participant’s chain of relationship structure.

10. In the case of simplified registration of an NRI Client, it is mandatory to obtain the registration information required in the regulations, which occurs as of signature of the agreement between the Participant and the foreign institution⁷.

11. Section II of this Guidance contains more details about the specific situation of NRI Client registration.

⁷ As set out in subparagraph II of Art. 1 of Annex 11-B of CVM Instruction 617/2019.

1.2. RBA MINIMUM ELEMENTS

12. In its surveillance, BSM will consider RBA minimum elements to be all the requirements set out in CVM Instruction 617/2019 applicable to the activity of intermediation, and the respective detailing recommended by this Guidance.

13. The Participant's RBA methodology must observe the criteria described below.

- a) Written format.
- b) Integrates the AML/CFT Policy, with the additional possibility of strategic or confidential information contained in a non-public document.
- c) Date on which it comes into effect
- d) Description of the classification criteria (i) of the Clients, and (ii) of the products and services, segmenting them into, at least, low, medium and high risk. When performing this classification of the products and services, the Client must consider the characteristics of its respective distribution channels and trading and registration environments. The Participant may also classify the distribution channels and trading and registration environments as low, medium or high risk. In all cases it will be necessary to demonstrate the effectiveness indicators, as defined in CVM Instruction 617/2019⁸, of the adopted classification.

⁸ **CVM Instruction 617/2019: Art. 6** The director that is the subject of the **main section** of Art. 8 must draft a report about internal assessment of ML/FT risk, to be sent to the senior management organs specified in the AML/CFT policy, by the last business day of April, containing as well as the information required in subparagraphs I and II of Art. 5, the following: [...] **V** – the submission of effectiveness indicators as set forth in the AML/CFT policy, including the timeliness of activities of detection, analysis and communication of atypical transactions or situations.

- e)** Description of the classification criteria of (i) Clients, and (ii) products and services, in accordance with the risk changes verified at any time, including due to surveillance and the annual Internal Risk Assessment report.
- f)** Criteria for the continuous surveillance of Clients and transactions, determining strengthened surveillance in cases of non-identification of the beneficiary owner, or of incomplete information.
- g)** Description of the reactions to (i) evidence of abnormalities identified through continuous surveillance, and (ii) any particular situations identified when there is complete information that allows this assessment, such as convictions regarding ML/FT practices that affect Clients.
- h)** Description of the processes of obtaining and assessing the information relevant for analysis of the Clients' risk, defining the concept of relevant information.
- i)** In the case of financial conglomerates that adopt a unique AML/CFT policy, a description of the mechanisms for the exchange of information between their internal control areas.
- j)** Description of the way in which the director responsible for compliance with CVM Instruction 617/2019 will have access to the information relevant to AML/CFT controls.
- k)** Description of specific treatment assigned and of strengthened surveillance in cases of (i) Clients who are politically exposed persons or nonprofits organizations, when there is complete information that allows such an assessment and (ii) when there is no identification of the beneficiary owner, or there is other incomplete information.

1.2.1 RBA ASSESSMENT BY BSM

14. BSM will check compliance with the requirements of CVM Instruction 617/2019, including those pertaining to the AML/CFT Policy, to the Internal Risk Assessment and respective annual report, and to the Rules, Procedures and Internal Controls adopted by each Participant.

15. For surveillance purposes, BSM will also consider as an RBA minimum requirement to be observed by the Participants, the detailing of obligations imposed by CVM Instruction 617/2019, as set forth in this Guidance.

16. There is not a standardized model for the implementation of the RBA. The Participant must establish its own methodology, observing the minimum guidelines defined by CVM and BSM.

17. The adopted RBA methodology, foreseen in the AML/CFT policy, must consider the elements analyzed by the Participant in its Internal Risk Assessment, so that the risks mapped in relation to the (a) Clients and their respective relationship structure, when applicable, and (b) products offered or services provided, and their respective distribution channels and trading and registration environments, will be mitigated with the application of the RBA methodology.

18. When BSM assesses whether the minimum requirements foreseen in the regulations and recommended in this Guidance have been observed by the Participant, it will check whether there is coherence between the risks identified by the Participant in the Internal Risk Assessment and the respective forms of mitigation described in the RBA methodology, considering the aspects described below.

- a)** Client classification review and update criteria, including the form of obtaining relevant information, at any time, for analysis of the Clients' risk, and its impacts on the classification granted.
- b)** Treatment of the situations in which it is impossible to obtain full registration information (especially qualification and financial and equity situation) or identify the beneficiary owner of the Client.
- c)** Eventual use of the RBA of third parties (for example, of the foreign institution or of the Clients' manager).
- d)** In the case of an NRI incorporated as a trust or similar vehicle, due diligence for identification of the following: settlor, protector, curator or trustee and beneficiary of the trust, as defined in article 15 of CVM Instruction 617/2019.
- e)** Identification, surveillance and treatment of the abnormalities related to the situations and transactions foreseen in article 20 of CVM Instruction 617/2019.

19. Inconsistency could be related to the classification's criteria or application. A classification that accepts a same Client or product at two risk levels, for example, would only be understood as consistent if accompanied by verifiable justifications.

20. In the same way, it would in principle be inconsistent to foresee, for example, a same reaction for all risk levels, or the adoption of typical action for low risk situations in relation to Clients or products whose risk has been classified as high.

21. Finally, BSM will also assess whether the RBA methodology has been applied in compliance with the premises approved by the Participant's senior management.

1.3. MINIMUM RISKS TO BE OBSERVED IN RBA

22. The Participant must develop and apply its RBA methodology considering at least the following risks, as set forth in CVM Instruction 617/2019 and FATF recommendations: (i) jurisdiction (1.3.1); (ii) Clients (1.3.2); (iii) institutions that form the relationship structure (1.3.3); and (iv) products and services and their respective distribution channels, as well as the trading and registration environments (1.3.4).

23. BSM will therefore monitor the Participants based on a minimum set of risks, as defined in CVM Instruction 617/2019 and in line with international practice, aiming to make inspection objective, to ease regulatory compliance, to apply equal treatment to Clients and to grant them security regarding surveillance criteria.

1.3.1. JURISDICTION RISK

24. The Participant must assess the ML/FT risk factors related to the jurisdiction of origin of the Clients, when there is complete information that allows such an assessment, considering at the least jurisdictions:

- a)** subject to sanctions or similar measures of international organizations, such as the United Nations;
- b)** that do not apply or insufficiently apply FATF recommendations, according to the lists that it publishes; and
- c)** that have taxation favored by or subject to privileged tax regimes, according to the rules published by the Brazilian Federal Revenue Service.

1.3.2. CLIENT RISK

25. Participants must assess risks related to the Client as regards, for example, occupation or the activity sector, products and services that it uses, and transactions carried out in the securities market in its name. The Participant RBA methodology must address the risk treatment adopted in relation to the Clients, at least in the following aspects:

- a)** characterization as a politically exposed person (PEP) or a relation of a PEP or, in the case of a corporation, controlled by a PEP;
- b)** characterization as a nonprofit;
- c)** corporate character with no sound economic basis, whose complexity is not justified by apparent benefits;
- d)** existence of a representative who refuses to provide information about the Client, unjustifiably or alleging an inapplicable impediment, of a contractual or legal nature, or whose provided information is inconsistent, at the discretion of the Participant;
- e)** sanction applied against the Client by a national or international authority related to ML/FT or which is responsible for supervising transactions in the securities market, with the Participant being allowed, however, to consider an agreement to change conduct or an instrument that produces similar effects;
- f)** mention of the Client in reliable news vehicles, related to ML/FT or financial crimes, or indicating that the Client has (i) committed or tried to commit terrorist acts, participated in these or facilitated their execution, or (ii) performed a transfer associable with financing of terrorism, as set forth in Law 13.260, dated March 16, 2016;
- g)** naming of the Client as a suspect in reports related to ML/FT or financial crimes, produced by competent national and international authorities;

- h)** if the Client provides services regarding the securities market, even in an unregulated manner;
- i)** development of activities by a Client in a jurisdiction considered non-cooperative, according to reports from FATF⁹ and other competent regional organisms in the matter;
- j)** transactions with securities affected by sanctions imposed by UNSC resolutions, according to the subject of Law 13.810, dated March 8, 2019;
- k)** transactions with securities affected by a foreign central authority's order to freeze assets, brought to the Participant's knowledge pursuant to Law 13.810, dated March 8, 2019;
- l)** securities belonging to or directly or indirectly controlled by a Client that has committed or tried to commit terrorist actions, participated in them, or facilitated them, as set forth in Law 13.260, dated March 16, 2016;
- m)** request for the Participant to transfer resources or assets to accounts in jurisdictions considered higher risk, as defined in item 1.3.1, 22 (a) or (b) above, or with no sound economic basis to justify such a transaction.

1.3.3. RISK OF THE ENTITIES IN THE CHAIN OF RELATIONSHIP

26. When classifying the Client's risk, the Participant must also consider the characteristics of the entities in the chain of relationship, as referred to item 1.1 of this Guidance, up to the Client. In this context there must be surveillance of the entities that represent the Clients in the flow between the order being issued and its execution by the Participant, of which fund managers and trustees are examples.

27. In theory, the risk is higher the more complex the chain is (for example in a pattern at odds with that illustrated in 2.1 of this Guidance) and the more incomplete

⁹ FATF publishes documents classifying the jurisdictions in relation to the effectiveness of their AML/CFT measures, highlighting those that are uncooperative, included in a "Call for action" list.

the information is about the entities that constitute it; and is lower when less complex and when the information is more complete.

28. Therefore, considering the complexity of the chain of the relationship up until the Client, as well as the completeness and quality of the information about the chain's entities, the Participant must identify:

- a)** entities that are part of the chain of relationship up until the Client, which (i) do not perform ML/FT risk control, or which have controls below the standard expected by Brazilian AML/CFT regulations, and (ii) whose other Clients are classified as high risk, without the adoption of satisfactory mitigating measures, or whose controls quality cannot be gauged by the Participant based on the information to which it has access;
- b)** a refusal, justified or not, to collaborate by sharing information. An unjustified refusal should be understood as a situation of greater risk than that in which the Participant understands the justification, with grounds, as being consistent;
- c)** entities that are part of the chain of relationship up until the Client and which are under investigation or have criminal convictions, particularly related to financial crimes, which are considered material, at the discretion of the Participant;
- d)** entities that are part of the chain of relationship up until the Client, located in higher risk jurisdictions, or with weak AML/CFT structures, as set forth in item 1.3.1, 22 (a) or (b) above;
- e)** entities that are part of the chain of relationship up until the Client, that have not remedied the noncompliance with rules pertaining to the securities market, or that are mentioned due to ML/FT-related irregularities.

1.3.4. PRODUCT OR SERVICE RISK

29. The Participants offer products and services to their Clients via different distribution channels and in different trading and registration environments. In this sense, the RBA Methodology should consider the risks related to each of the products or services offered, classifying them, at least, as low, medium, or high, as well as assess to what degree the form of supply or the nature of the product or service might raise potential vulnerabilities to ML/FT practices. The following are the product- or service-related minimum risks to be considered:

- a)** geographic range of the product or service, such as those whose underlying assets are traded in higher risk jurisdictions, as defined in item 1.3.1 of this Guidance;
- b)** products with an uncommon complexity or structure or without a sound economic basis;
- c)** products or services that facilitate the transfer of resources via simulated transactions in the securities market, for example, as a result of the trading or registration environment through which they take place, or as a result of characteristics such as the underlying asset's liquidity.

1.4. RBA REVIEW

30. BSM expects Participants to assess risks and apply the forms of mitigation as continuous actions. The identified risks might change with time, requiring risk reclassification, for example, as new products or services, Clients, or elements in the context of a relationship with the Client arise.

31. Considering that the report about the Internal Risk Assessment is drawn up annually, BSM expects the Participant to consider the results observed therein,

enhancing, if necessary, its internal controls, RBA methodology, or its AML/CFT Policy.

32. BSM will analyze whether the content of this report is compatible with the measures adopted by the Participant to remedy any weaknesses detected.

1.5. CONTINUOUS SURVEILLANCE AND RISK CLASSIFICATION

33. Surveillance of the transactions and situations defined in articles 20 and 21 of CVM Instruction 617/2019 shall encompass all transactions intermediated by the Participant, regardless of the Client's risk classification.

34. BSM will analyze whether the surveillance process drawn up by the Participant:

- a)** encompasses all transactions or situations defined in articles 20 and 21 of CVM Instruction 617/2019, considering the information to which the Participant has access;
- b)** contains sufficient filters to identify outliers and evidence of irregularities defined in the regulations;
- c)** considers analysis, with consistent criteria¹⁰, of all the identified atypicality;
- d)** has parameters to filter the data bases in searches for outliers related to the directives of the AML/CFT Policy and the provisions of the regulations;
- e)** considers Client registration, custody and current account information in analysis of the abnormalities.

¹⁰ According to examples of appropriate forms of analysis available at <https://www.bsmsupervisao.com.br/Noticias/2018-12-18-treinamento-prevencao>.

1.6. ANALYSIS OF SURVEILLANCE-BASED ALERTS

35. Treatment of the alerts arising from surveillance should be concluded within 45 days¹¹ of the date on which the alert was generated. This deadline does not apply for the situations described in articles 27 and 28 of CVM Instruction 617/2019, which require immediate action by the Participant to freeze the assets affected by UN Security Council sanctions¹².

36. The Participant shall demonstrate the conduct adopted according to the result of the analysis, which may include risk reclassification.

37. The RBA methodology shall define the situations that will lead the Participant to risk reclassification based on the results of the surveillance¹³.

38. Surveillance must be strengthened in cases of incomplete information, for example where there is no identification of the beneficiary owner, when applicable, or other information required by the Brazilian regulations.

¹¹ This deadline was established based on the first paragraph of Art. 43 of Central Bank of Brazil Circular 3.978, dated January 23, 2020: Art. 43. The institutions referred to in Art. 1 shall implement procedures for the analysis of transactions and situations selected via the surveillance and selection procedures that are the subject of Art. 39, with the aim of characterizing them, or not, as suspicious for money laundering and financing of terrorism. Paragraph 1 The period for the execution of the analysis procedures for selected transactions and situations cannot exceed the deadline of 45 days, counted as of the date of the selection of the transaction or situation.

¹² Art. 27. The persons mentioned in subparagraphs I to IV of art. 3 must, immediately and with no prior warning to those who are sanctioned, comply with the measures established in the UNSC sanctions resolutions or the designations of its sanctions committees that determine the freezing of assets or of any values held directly or indirectly by individuals, corporations or entities as set forth in Law 13.810, of 2019, without prejudice to the duty of meeting legal determinations to freeze assets also foreseen in this law. [...] Art. 28. In order to assure full compliance with the provisions of art. 27, the persons mentioned in subparagraphs I to IV of art. 3 must to the full extent of their responsibilities adapt their rules, procedures and internal controls regarding their business relationships already in effect or subsequently to come into existence thereto, in regard to which they can be identified as interested individuals, corporations or entities encompassed by the asset freezing determinations that are the subject of art. 27.

¹³ The list of definitions does not need to be exhaustive, there can be other situations, if they are justified.

39. The Participant shall be responsible to describe, in accordance with the parameters of its AML/CFT Policy, of the Internal Risk Assessment and, as applicable, of the provisions of the respective rules, procedures and internal controls, the measures that it will consider as strengthened surveillance, in the cases demanded by CVM Instruction 617/2019.

40. BSM will judge the strengthened surveillance requirement as met when the Participant opts not to differentiate the surveillance criteria, as long as it differentiates the analysis criteria of the filtered atypicalities¹⁴.

1.7. FINANCIAL AND EQUITY SITUATION SURVEILLANCE

41. The Participant must identify and update the Clients' registration data, among which the financial and equity situation, in accordance with the content in Annex 11-A of CVM Instruction 617/2019.

42. To this end, the Participant may use supplementary information¹⁵ to define the financial capacity of the Clients, if it proves useful and reliable for the Know your Client process.

43. Financial capacity is understood as being the financial and equity information obtained through the Know your Client process, considering or not the supplementary information to which the Participant has had access, in compliance with the criteria established in the RBA.

¹⁴ In accordance with the examples of appropriate forms of analysis available at <https://www.bsmsupervisao.com.br/Noticias/2018-12-18-treinamento-prevencao>.

¹⁵ In accordance with the Explanatory Note to CVM Instruction 617/2019 (fls.9 e 11), available at <http://www.cvm.gov.br/legislacao/notas-explicativas/nota617.html>.

44. The following are examples of the non-exhaustive supplementary information that may be used in the composition of the financial capacity of the Clients, as applicable:

- a)** if an individual, updated information about income and the equity situation;
- b)** if a corporation, except corporations with securities of their issuance accepted for trading in an organized market, updated information about average monthly revenue in the past 12 months and respective equity situation;
- c)** if investment funds registered with CVM and other situations, updated information about the financial and equity situation;
- d)** value of the Client's managed portfolio;
- e)** public surveys about the Client's financial statements and revenue data;
- f)** information about the Client contained in the databases to which the Participant has access;
- g)** financial volume of the Client's transactions, obtained through the history of transactions in the period of the relationship with the Participant; and
- h)** value of the operational limit assigned to the Client, in accordance with the Participant's AML/CFT policy.

1.8. COMMUNICATION TO COAF

45. The report to the Council for Financial Activities Control (COAF) cannot be based exclusively on the incompleteness of information, for example not knowing the beneficiary owner, and on classification as high risk.

46. The cases reported to COAF must contain atypicalities or evidence of money laundering or the financing of terrorism, observed via individualized evidence-based analyses, carried out by the Participant, that demonstrate sufficient materiality, in accordance with the requirements of Art. 22 of CVM Instruction 617/2019.

47. The report must be made to COAF within 24 hours of conclusion of the analysis conducted by the Participant¹⁶ should the identified atypicalities not be duly justified after the analysis process conducted by the Participant.

1.9. ASSESSMENT OF MAINTENANCE OF THE RELATIONSHIP WITH THE CLIENT

48. The decision to maintain the relationship with the Client or not is at the convenience of the Participant, which will assess the risk to its image and reputation and other applicable risks.

49. Incomplete information for AML/CFT purposes, including about the Client's beneficiary owner, do not make ending the relationship with the Client mandatory. In this case, it will be up to the Participant to decide whether it wishes to maintain the relationship or not.

1.10. DUTIES OF SENIOR MANAGEMENT

50. The RBA encompasses all the Participant's AML/CFT processes. Because of this complexity and the importance of the RBA for Participants, senior management must know about and approve it.

¹⁶ CVM Instruction 617/2019 – Art. 22. The persons mentioned in subparagraphs I to IV of Art. 3 of this Instruction must, pursuant to the provisions of this section and upon well-founded analysis, communicate to the Financial Intelligence Unit all of the situations and transactions detected, or proposals of transactions that might constitute serious evidence of ML/TF. Paragraph 3 The communication that is the subject of the main section must be made within 24 hours of conclusion of the analysis that determined the abnormality of the transaction, the proposal in question, or even of the detected atypical situation, such as a recusation to be communicated by the Financial Intelligence Unit.

51. Therefore, with no prejudice to the functions of the executive officer responsible for compliance with CVM Instruction 617/2019, senior management's duties in relation to the RBA are described below.

INTERNAL RISK ASSESSMENT	AML/CFT POLICY	RULES, PROCEDURES AND INTERNAL CONTROLS
Senior management approves and is responsible for reviewing the Internal Risk Assessment ¹⁷	Senior management approves and is responsible for reviewing the AML/CFT Policy	Senior management approves and is responsible for reviewing the rules, procedures and internal controls
The director responsible for compliance with CVM Instruction 617/2019 drafts and submits to senior management the ML/FT Internal Risk Assessment report, as defined in CVM Instruction 617/2019 ¹⁸	The AML/CFT Policy must describe the structure of the senior management bodies and the distribution of responsibilities at each level of the Participant's hierarchy about drafting and implementing the RBA ¹⁹	The director responsible for compliance with CVM Instruction 617/2019 must implement and maintain the AML/CFT policy in a way that is compatible with the nature, size, complexity, structure, risk profile and business model of the institution ²⁰

¹⁷ CVM Instruction 617/2019: Art. 9 Without prejudice to the responsibility of the director that is the subject of the main section of Art. 8, the senior management bodies as specified in the AML/CFT policy, are responsible for the approval and enhancement of the respective policy, the internal risk assessment, and of the rules, procedures and internal controls that are the subject of Arts. 4 to 7.

¹⁸ CVM Instruction 617/2019: Art. 6 The director that is the subject of the main section of Art. 8 must draft a report regarding ML/FT internal risk assessment, to be submitted to the senior management bodies specified in the AML/CFT policy, by the last business day of April, containing as well as information required in subparagraphs I and II of Art. 5, that which follows [...]

¹⁹ CVM Instruction 617/2019: Art. 4 The corporations mentioned in subparagraphs I to III of Art. 3 of this Instruction must draft and implement an AML/CFT Policy containing at least: I – governance related to compliance with the obligations that are the subject of this Instruction, including the detailed description of how the senior management bodies are structured, when applicable, as well as definition of the roles and distribution of responsibilities of the members of each level of the institution's hierarchy regarding the drafting and implementation of the risk-based approach process, with special emphasis on the routines foreseen in Arts. 17, 18, 20, 21, 22 and 23 of this Instruction.

²⁰ CVM Instruction 617/2019: Art. 8 The corporations mentioned in subparagraphs I to III of Art. 3 of this Instruction must designate a chief officer, responsible for compliance with the rules established by this Instruction, in particular for the implementation and maintenance of the respective AML/CFT policy compatible with the nature, size, complexity, structure, risk profile and business model of the institution, in such way as to assure the effective management of the indicated ML/FT risks.

1.11. CONGLOMERATE RISK CLASSIFICATIONS

52. Participants that belong to conglomerates may adopt the same Client, product and services risk classification as assigned to institutions, including foreign ones, of its conglomerate, as long as mechanisms for the exchange of information are guaranteed with the respective internal control areas.

53. Additionally, there must be detailing of the entities that share risk classification and the mechanism for the exchange of information among entities in the conglomerate or same business group.

54. BSM will check the effectiveness of the exchange of information between the internal control areas, therefore the Participant must use a verifiable form of information transmission between these control areas.

55. The Participant may opt to adopt its own risk classification, even in the case of use of the same AML/CFT policy by the entire conglomerate of which it is part.

1.12 REGISTRATION OF CLIENTS AT THE BEGINNING OF THE RELATIONSHIP

56. The Participant may initiate a relationship with the Client without having obtained all the registration information required by the regulations.

57. If the Participant does not initially obtain all of the information about the Client, but all of the procedures relative to obtaining registration information have been initiated, the prohibition on accepting accounts handling information, which is the subject of Art. 11, paragraph three, of CVM Instruction 617/2019, will not be applicable.

58. If certain registration information is not obtained at the beginning of the relationship, the RBA of the Participant may establish ways to treat the risk of this incompleteness.

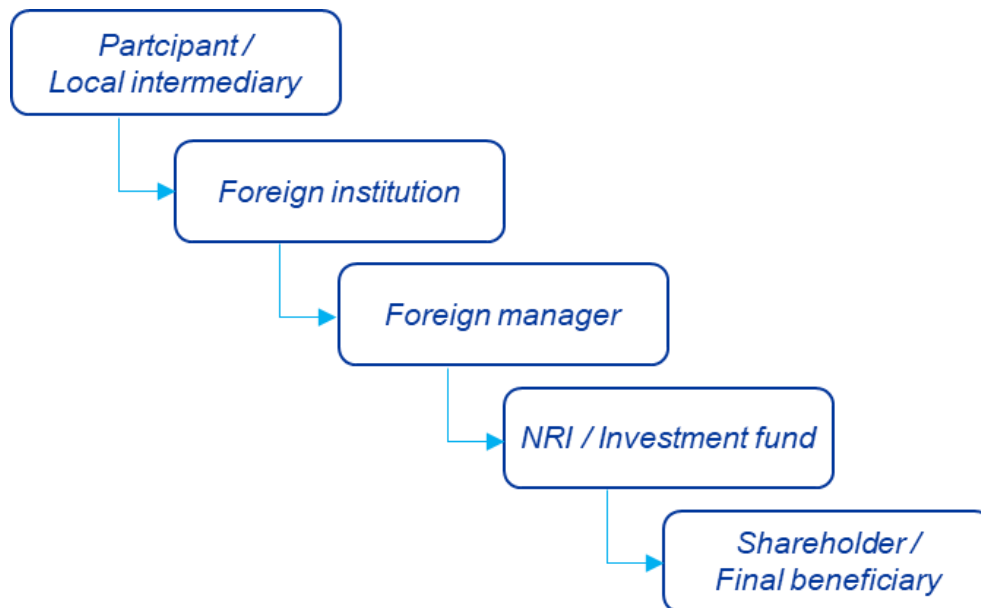
SECTION II – RBA AND SIMPLIFIED REGISTRATION OF THE NRI CLIENTS

2. REGULATORY CONTEXT

59. Annex 11-B of CVM Instruction 617/2019 covers the conditions for simplified registration of NRI Clients, including that (i) the NRI Client be aware of the foreign institution that maintains an agreement with the Participant, and be registered with it, in accordance with the foreign legislation applicable in the country of origin of the foreign institution; (ii) the foreign institution take on with the Participant the obligation of presenting, whenever requested, all the information relative to the NRI Client resulting from process of its identification; and (iii) the Participant adopt specific risk assessment measures that it decides to assign to the foreign institution.

2.1. CHAIN OF RELATIONSHIP BETWEEN THE PARTICIPANT AND THE NRI AND INCOMPLETENESS OF INFORMATION

60. The most common chain of relationship, in the case of the NRI Client, is exemplified below.



61. The Participant maintains an agreement with the foreign institutions which, for their part, maintain a business relationship with foreign portfolio managers that are representatives of the NRI Client. In some cases, the foreign institution also takes on with the Participant the role of manager or representative of the NRI Client.

62. However, for CVM Instruction 617/2019, the Participant's Client is the NRI, which establishes a legal bond with the Participant, directly or via representatives.

63. In this way, chains of relationship exist that are formed from several entities between the Participant and the NRI, such as foreign intermediaries, managers etc. Due to the requirements of some due diligences, these foreign entities must hold, in accordance with the applicable legislation in their country of origin, important registration information of their respective Clients, in accordance with their role in the chain.²¹

64. In this way, the Client might not obtain the complete information of the NRI Client that operates via simplified registration, such as its financial and equity situation,

²¹ In support of this practice we have as an example FATF Recommendation 17.

beneficiary owner, among others. This is because the Participant would normally only have access to information mandatorily obtained in the jurisdiction of origin of the foreign institution.

65. However, the incompleteness of the information is an inherent element to this chain of relationship and does not characterize an irregularity if the Participant demonstrates that it exercised due diligence in obtaining information and treated this incompleteness via the RBA, as defined in item 2.3.

66. In this way, application of the RBA allows to manage, also in the case of simplified registration of the NRI Client, the ML/FT risk in case of incomplete information scenario, particularly in regard to non-identification of the end beneficiary of the NRI.

2.2. KNOW YOUR CLIENT AND NRI CLIENT REGISTRATION

67. The foreign fund managers, as representatives of the NRI, are normally foreign entities that maintain a direct business relationship with the foreign institution that maintains an agreement with the Participant. In this scenario, the Participant may initially register the foreign manager and complement the registration with the information of the NRI Client that it manages, as long as the Know your Client process, in accordance with Art. 17 and Annex 11-B of CVM Instruction 617/2019, has NRI information as its aim.

68. Considering that all the registration information required in the jurisdiction of origin of the foreign institutions, of the foreign managers, or of the entities in the chain of relationship localized outside of Brazil, may be less than or different to that required by Brazilian regulations, the registration processes and Know your Client may result in incompleteness in regard to the information required by CVM Instruction 617/2019.

69. This incompleteness will not be considered an irregularity if the Participant demonstrably performed due diligence in relation to obtaining this information, or opts not to request it knowing that this is provenly information not required by the regulations in the country of origin of the NRI Client.

70. Incomplete information is also not to be confused with out of date registration. If, when updating registration, as set forth in subparagraph III of Art. 4 of CVM Instruction 617/2019, the Participant does not obtain all the information about the NRI Client, but due diligence in the procedures for obtaining registration information is in evidence, the prohibition will not be applicable on accepting account handling orders, which is the subject of Art. 11, third paragraph, of CVM Instruction 617/2019.

71. The Know your Client process is broad and continuous. For this reason, even when certain registration information is lacking, the Client's RBA can foresee ways of treating the risk of this incompleteness, above all considering the course taken by the relationship, whereby information obtained via surveillance of the NRI Client's activity is expected to contribute to increasing the Participant's knowledge, filling any gaps that were present at the start of the relationship.

72. For this reason, incompleteness of information inherent to the simplified registration of the NRI Client does not presuppose an automatic increase to these Clients' risk. It is possible for the Participant to adopt the risk level that the foreign institution assigns to the NRI Client, as detailed in item 2.6 of this Guidance.

2.3. SURVEILLANCE AND RISK CLASSIFICATION OF THE NRI CLIENT

73. In the case of incomplete information, in addition to classifying the NRI Client's risk, the Participant must describe in its AML/CFT Policy the criteria strengthened to analyze NRI transactions or atypical situations, regardless of the risk classification assigned to these Clients.

74. When the Participant does not have access to all the information required by Brazilian regulation, including in the simplified registration of the NRI Client, it may consider the RBA of the entities in the chain of relationship linked to this NRI Client, and surveillance of this Client throughout the relationship.

75. When the NRI Client is a fund or similar investment vehicle represented by a foreign portfolio manager, and the Participant does not know all the information about the NRI, the Participant may consider the RBA of the manager or equivalent in its respective jurisdiction to support its risk assessment of the NRI Clients linked to it, as detailed in item 2.6 of this Guidance.

76. The surveillance performed by the Participant must focus on transactions with securities in the name of each NRI Client, and not of the foreign manager. The result of this surveillance is a way to obtain assistance to assess the NRI Client's risk during its relationship, above all in the scenario of incomplete registration information.

2.4. REQUEST FOR INFORMATION FROM THE FOREIGN INSTITUTION

77. Simplified registration of the NRI Client presupposes the foreign institution being obligated to submit all registration information of the NRI, including its portfolio manager or equivalent, pursuant to the applicable legislation in the country of origin of the foreign institution.

78. This obligation must be established in a written agreement between the Participants and the foreign institution. The agreement must comply with the applicable rules issued by the administrative entities for organized market operators and financial market infrastructure operators, as well as those issued by the self-regulation entity.

79. In simplified registration, the Participant shall have the contractual prerogative of requesting information about the NRI Client, as set forth in CVM Instruction 617/2019, from the foreign institution. The same shall occur throughout the relationship with the NRI Client whenever registration update is necessary.

80. However, the Participant must additionally conduct due diligence to improve understanding of the equity and financial situation of the NRI Client and its end beneficiary.

81. Similarly, according to the agreement, the Participant shall require the foreign institution to provide information that could be required in the country of origin, employing its best efforts to comply with Brazilian regulations for NRI Client identification, with incompleteness as set forth in item 2.1 of this Guidance being accepted.

82. If the Participant has already requested the information, required by Brazilian regulations, from a determined foreign institution and not received it, justifiably, the due diligence required for registration of a new NRI Client linked to the same foreign institution, in the same circumstances, may dispense with a new information request.

83. To this end, the Participant will need to demonstrate that the circumstances are identical, and that a new request would be ineffective. This may occur, for example, when the Participant demonstrates that it knows the flows and limits on access to determined information by the foreign institution, so that a new request would not be useful, neither produce a different result to that of the previous request.

84. The Participant must identify, upon questioning and in a periodicity compatible with the risk, as foreseen in AML/CFT Policy, any change to practice by the foreign institution, to legislation, or other events that could alter access to this information by the foreign institution.

2.5. NON-PROVISION OF INFORMATION BY THE FOREIGN INSTITUTION

85. Below are possible scenarios regarding the provision of information on the part of the foreign institution:

- a)** the foreign institution has and provides the Participant with all requested information;
- b)** the foreign institution does not have all the requested information, because it follows the reliance rule, because it adopts the RBA of another entity in the chain of relationship (such as of a portfolio manager, for example) up until the NRI Client, or because this information is not required of it by its regulators in the jurisdiction in which it operates;
- c)** the foreign institution has the requested information, but does not send it to the Participant, with motivation; and
- d)** the foreign institution has the requested information but does not send it to the Participant, without motivation, or there is partial or inconsistent submission.

86. The Participant must define in its RBA methodology the treatment that it will assign to each of the above scenarios, demonstrating its impact on risk assessment.

87. The RBA shall also foresee treatment of situations in which the foreign institution fails to provide a justification for not sending the requested information, which the Participant deems reasonable. The scenario in which the Participant knows the foreign institution does not provide information because it does not have it must, for example, be assessed as less serious than a scenario in which the Participant knows that the foreign institution is aware of this information but refuses to provide it, without justification, or only partially provides it.

2.6. FOREIGN INSTITUTION RISK CLASSIFICATIONS

88. The Participant must know the risk methodology the foreign institution adopts to classify other entities in the chain of relationship up until the NRI Client. All the entities that provide securities services in between the order being issued by the NRI Client (or in its name) and its execution by the Participant comprise the chain of relationship. In this way, the Participant must consider the events of which it gains knowledge and that suggest a significant and material loss ratio related to ML/FT.

89. The Participant may reproduce the risk classification of an NRI Client that has been assigned by a foreign institution or by another entity in the chain of relationship, as long as the Participant knows the RBA methodology of this institution or entity, and is certain that they comply with the Participant's own RBA.

90. In the case raised in the previous paragraph, if the RBA of the foreign institution or entity in the chain of relationship falls short in relation to the minimum required by Brazilian regulation, such as not considering some of the risk factors defined in item 1.3 of this Guidance, it will be up to the Participant to complement it, performing due diligence to provide the missing minimum requirements.

91. The Participant must also assess the risk inherent to the use of the RBA of the foreign institution or entity of the chain of relationship not being compatible with what is required by Brazilian regulation.

92. Should the RBA of the foreign institution or entity in the chain of relationship not completely comply with the minimum required by Brazilian regulation, it is recommended that the Participant establish its own RBA methodology for the assessment and classification of the risks of the NRI Clients related to that foreign institution or entity in the chain of relationship.

93. When opting to replicate the risk classification assigned to the NRI Client by the foreign institution, or by an entity in the chain of relationship, the Participant must show that it has conducted the routines foreseen in the Know your Client process according to the RBA risk classification adopted. The use of an RBA from a third party does not exempt the Participant from monitoring all transactions that it intermediates in the name of the NRI Client in the Brazilian securities market.

94. Finally, it is recommended that the Participant assess the risk of the foreign institution and other entities in the chain of relationship, always considering the information to which it has access, as set forth in item 2.3.

2.7. IMPACT OF THE FUND MANAGER'S RISK CLASSIFICATION ON THE RISK CLASSIFICATION OF THE NRI CLIENT

95. When the Participant understands that the fund manager or representative of the NRI Client presents a higher ML/FT risk, logically the represented NRI must have its risk classification influenced due to the elevated risk of the service provider linked to it, unless the Participant understands differently and with a sound basis.

96. In the same way, an NRI Client with an elevated risk classification should only influence the risk classification of the other NRI Clients linked to the same manager if this latter collaborated in some way with the atypicality identified in the NRI Client classified as higher risk.

97. However, the Participant may opt to classify differently the risks assigned to the NRI Client and to the manager that represents it, which will be considered consistent for purposes of BSM's assessment of the RBA, in accordance with item 1.2.1 of this Guidance.

Annex II

OF/BSM/DAR-3005/2020

September 04, 2020

Sr. Francisco José Bastos Santos

Securities and Exchange Commission of Brazil (CVM)
Market and Intermediaries Relations (SMI)

Sr. Marcus Vinicius de Carvalho

Securities and Exchange Commission of Brazil (CVM)
Money Laundering and Terrorist Financing Prevention Center

Re: **Consultation on the adequacy of the guidance to be announced to B3's Participants about the minimum elements BSM expected for the Risk-Based Approach (RBA) and the Simplified Registration of Nonresident Investors (NRI) in the context of CVM Instruction 617, dated December 5, 2019 (CVM Instruction 617/2019)**

1. In the SBR 2019-2020 Biennial Plan, CVM prioritized risk event 2.3²², which deals with general failures in Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT) risk management by the intermediaries, highlighting NRI

²² **SBR 2019-2020 Biennial Plan – Risk Event 2.3: General failures in the AML risk management process by the intermediaries. When drafting this plan, SMI did not have robust statistics about this risk event. Based on inferences, SMI considered this risk event as priority, to which end it will adopt surveillance actions seeing to mitigate associated risk, highlighting simplified registration of nonresident investors, in those situations in which information necessary for the full knowledge of the nonresident investor have not been provided by the foreign intermediary.**

simplified registration, especially in those situations in which the information necessary for the full knowledge of the NRI has not been provided by the foreign intermediary. In this context it was delegated to the BSM Market Supervision (BSM) to monitor the Participants in the markets operated by B3 (Participants), to evaluate compliance with the rules.

2. To perform this role, as understood by CVM, we decided to issue Guidance for the Participants about the RBA and about NRI simplified registration (Guidance), in the form of a Guidance Note about the minimum diligence expected in relation to compliance with CVM Instruction 617/2019.

3. In this context and to obtain assistance from the market about the main aspects of the Guidance, the matter was previously submitted to BSM's Market Advisory Committee and the Working Group was created, with Market and B3 Participants, to assist BSM in drafting the Guidance. In these interactions and based on the BSM's experience in audits, we obtained important inputs regarding the procedures and controls of Participants in AML/CFT.

4. The purpose of this initiative was to allow the Guidance to be drafted by BSM in compliance with the Participants' processes and the rule's objectives, so as to eliminate uncertainties about the forms considered appropriate for compliance with AML/CFT legislation and, in this manner, to grant transparency regarding the objectives in surveillance of Participants that is performed by BSM, reducing the surveillance cost and granting regulatory effectiveness.

5. In this way, the Guidance (Annex I) details the minimum content to be considered in BSM's surveillance and provides examples of the RBA implementation actions that are the subject of CVM Instruction 617/2019, consolidating BSM's guidance regarding AML/CFT.

6. In the Guidance, responding to CVM's request, the concepts of client and investor, as defined in CVM Instruction 617/2019²³, are treated identically. In this way, mentions of the "client" in the Guidance mean the individual or corporation, investment fund, investment club, or NRI, in whose name transactions are executed with securities.

7. This unification of the definitions of client and investor is justified by the Participant having a legal bond, pursuant to the provisions of CVM Instruction 505, dated September 27, 2011 (CVM Instruction 505/2011), with the persons or entities in whose name transactions with securities are executed. Thus, for the purposes of the Guidance, we considered that fund managers are not clients of the Participant, but representatives of these clients, as there is no legal bond to which CVM Instruction 505/2011 refers.

8. Considering that CVM Instruction 617/2019 will come into effect on October 1, 2020 and that there is a mass of information related to the Participant's client base that needs to be adapted to the requirements of the new rule, we have used, for surveillance purposes, the following adaptation criteria:

(i) For registration adaptation purposes:

- a.** lower-risk clients, in accordance with the Participant's classification: must have their registers adapted, in accordance with the periodicity determined in the AML/CFT Policy, observing the five year deadline established in art. 4, subparagraph III of CVM Instruction 617/2019, counted as of the day of the last registration update;

²³ CVM Instruction 617/2019: Art. 2 For the purposes of the present instruction the following is considered:[...] V – client: investor that has a direct business relationship with the persons mentioned in Art. 3 of this instruction; [...] X – investor: individual or corporation, investment fund or joint investment vehicle or the nonresident investor in whose name transactions are executed with securities;

11. Immediately following publication of the Guidance, BSM will present CVM with the agenda for surveillance of the Participants, bearing in mind the provisions of CVM Instruction 617/2019. To this end it will take into consideration the information obtained with the Participants regarding implementation of processes and controls for compliance with CVM Instruction 617/2019.

12. Finally, we confirm that BSM will publish, with the Guidance, this present Letter and the respective response from CVM.

Sincerely,

Marcos José Rodrigues Torres
Self-Regulation Officer

Annex I of OF / BSM / DAR-3005/2020 corresponds to Annex I (Market Orientation) of this External Communication 04/2020

Annex III

**CVM's answer to Letter OF/BSM/DAR-3005/2020, dated September 4, 2020,
sent to BSM via Letter 94/2020/CVM/SMI, dated September 18, 2020.**



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Letter 94/2020/CVM/SMI

Rio de Janeiro, September 18, 2020.

To
BSM MARKET SUPERVISION
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Re: **Consultation on the adequacy of the Guidance for the Market in the context of CVM Instruction 617**
OF/BSM/DAR-3005/2020, dated September 4, 2020

1. We hereby refer to the consultation brought by BSM Market Supervision (BSM), via OF/BSM/DAR-3005/2020, accompanied by Annex I – Market Guidance, regarding adapting the aforementioned Guidance, to be disclosed to B3's Participants, about the minimum elements that BSM expects in regard to the Risk Based Approach (RBA) and Nonresident Investor (NRI) simplified registration in the context of CVM Instruction 617/19 (CVM Instruction 617), which will come into effect on October 1, 2020, revoking CVM Instruction 301/99 (CVM Instruction 301).

2. Forthwith, we listed the most relevant points raised in the context of the Guidance.

Risk classification

3. The Participant must classify the risk of the client, products, services and distribution channels, as determined by art. 5, II, of CVM Instruction 617, based on the existing information, observing the deadline of 90 days as of the date that CVM Instruction 617 comes into effect.

Registration adaptation

4. The registrations of lower risk clients, according to the classification of the Participant, must be adapted in accordance with periodicity determined in the AML/CFT Policy of the Participant, having observed the deadline established in art. 4, III, of CVM Instruction 617, counted as of the registration date or last registration update.

5. The registrations of higher risk clients, also in accordance with the classification of the Participant, must be adapted in accordance with the periodicity determined in the same AML/CFT Policy, having observed the maximum renewal period of 24 months, foreseen in CVM Instruction 301, counted as of the registration date or the last registration update.

Fund managers

6. Fund managers are not clients of the Participant, but are rather representatives of these clients, as there is no legal bond to which CVM Instruction 505/11 refers.

Deadline to finalize analysis of generated alerts

7. The conclusion of analyses to be performed by the Participant from the alerts generated by its surveillance system, foreseen in art. 21 of CVM Instruction 617, must meet the deadline of 45 days as of the date that the alert is generated, which we consider reasonable for timely compliance with the criteria.

Provision of NRI information by the foreign institution

8. The Participant must define in its RBA methodology the treatment it will grant to each scenario as regards the fullness and quality of the NRI information provided by the foreign institution.

9. This definition must encompass a more positive scenario in which the foreign institution provides the Participant with all the requested information, and a more pessimistic scenario in which the foreign institution does have the requested information but does not send it to the Participant, for no reason, or sends it only partially or inconsistently.

10. In summary, we understand that this Guidance proposed by BSM complies with CVM Instruction 617.

11. Please note that, regarding the stock of registrations, investors' data gathered in accordance with the rules foreseen in CVM Instruction 301 are sufficient for relationships that began up until September 30, 2020, as they met the requirements of the regulations that prevailed up until that date.

12. Finally, we await BSM's programming of the surveillance of Participants, bearing in mind the coming into effect of the new regulations and considering the implementation of the processes and controls for compliance with CVM Instruction 617 by the Participants.

Sincerely,

Document signed electronically by **Francisco José Bastos Santos**, Associate Director, on September 19, 2020, at 8:32 PM, based on art. 6, paragraph 1, of Decree 8.539, dated October 8, 2015.