



SECURITIES AND EXCHANGE COMMISSION OF BRAZIL

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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

CVM RESOLUTION Nº 16, OF FEBRUARY 9TH, 2021

Provides for the activity of investment agent and repeals CVM Instruction Nº 497, of June 3rd, 2011, CVM Instruction Nº 515, of December 29th, 2011, and CVM Instruction Nº 610, of August 5th, 2019.

The **PRESIDENT OF THE SECURITIES AND EXCHANGE COMMISSION – CVM** makes public, in meeting held on this date, in view of the provisions of article 8th, I, and 16, I and III, of Law nº 6,385 of December 7th, 1976, that the Collegiate **APPROVED** the following Resolution:

CHAPTER I - SCOPE AND PURPOSE

Art. 1. This Resolution regulates the activity of investment agents.

Paragraph 1. An investment agent is the individual registered in the form of this Resolution to perform, under the responsibility and as an agent of the institution of the securities distribution system, the activities of:

I - prospecting and customer acquisition;

II - receipt and registration of orders and transmission of such orders to the applicable trading or registration systems in the form of the regulations in force; and

III - provision of information on the products offered and on the services provided by the member institution of the securities distribution system through which he/she has been contracted.

Paragraph 2. The provision of information referred to in item III includes the support and guidance activities inherent in the commercial relationship with customers, subject to the provisions of article 15.

Art. 2. The investment agents may carry out their activities through a corporation or individual firm constituted exclusively for this purpose, subject to the requirements of this Resolution.

Paragraph 1. The constitution of a legal entity, in the form of the head provision, does not elide the obligations and responsibilities established in this Resolution for the investment agents that integrate it nor for the members of the securities distribution system that have contracted him/her.

Paragraph 2. The company constituted in the form of the head provision shall be registered in the CVM, in the form of article 4.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Art. 3. The activity of investment agent can only be exercised by the individual registered in the form of this Resolution, who:

I - maintains a written contract with a member institution of the securities distribution system for the provision of the services related to paragraph 1 of article 1; or

II - be a partner of a legal entity, constituted in the form of article 2, who maintains a written contract with a member institution of the securities distribution system for the provision of the services related in paragraph 1 of article 1.

CHAPTER II - ACCREDITATION AND REGISTRATION

Section I - General Standards

Art. 4. The registration for the exercise of the activity of investment agent shall be automatically granted by the CVM to the individual and legal entity accredited in the form of this Resolution.

Sole paragraph. The registration of the investment agent and the legal entity constituted in the form of article 2 is proven by the registration of his/her name in the list of investment agents contained in the CVM webpage.

Art. 5. Accreditation is mandatory for:

I - investment agents; and

II - legal entities constituted in the form of article 2.

Art. 6. The accreditation of investment agents and legal entities constituted by them in the form of article 2 is made by accrediting entities authorized by the CVM, in the form of articles 7 and 8 of this Resolution.

Art. 7. The accreditation must be granted by the accrediting entity to the investment agent that meets the following minimum requirements:

I - has completed high school in the country or equivalent abroad;

II - has passed technical and ethical qualification exams defined by the CVM;

III - is not disabled or suspended for the exercise of a position in financial institutions and other entities authorized to function by the CVM, the Central Bank of Brazil, the Federal Insurance Commissioner - SUSEP, or the National Supplementary Pension Commissioner– PREVIC;



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

IV - not have been convicted of the crimes of bankruptcy, malfeasance, bribery, corruption, embezzlement, money laundering, or concealment of goods, rights, and values, against the popular economy, the economic order, consumer relations, the public faith, or public property, the national financial system, or criminal punishment that prevents, albeit temporarily, access to public offices, by a res judicata decision, except for the possibility of rehabilitation; and

V - not be prevented from managing or disposing of his/her assets due to a court decision.

Sole paragraph. The CVM shall approve in advance the exam program to be used for certification, as well as their periodicity, and any other criteria or procedures for the accreditation of investment agents.

Art. 8. The accrediting entity must grant accreditation to legal entities established pursuant to article 2, that:

I - have headquarters in the country;

II - are incorporated as a general partnership, adopting any of the forms allowed, in the form of the legislation in force; and

III - have, as an exclusive corporate purpose, the exercise of the activity of investment agent, prohibiting the participation in other corporations.

Paragraph 1. The name of the legal entity referred to in the head provision, and the assumed names that may be used must present the expression “Agente Autônomo de Investimento”, prohibiting the use of acronyms and words or expressions that mislead the investor as to the object of the corporation.

Paragraph 2. The legal entity must have as partners only individuals who are investment agents, to whom the exercise of the activities referred to in items I to III of paragraph 1 of article 1 shall be assigned, exclusively.

Paragraph 3. Without prejudice to the responsibilities arising from their individual conduct, all partners are liable, before the CVM, the accrediting entity, and the competent self-regulatory entities for the activities of the corporation.

Paragraph 4. The same investment agent may not be a partner of more than one legal entity incorporated in the form of the head provision.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Section II - Denial of Accreditation Request

Art. 9. The decision to deny a request for accreditation must be communicated to the applicant, clarifying the reasons why the accrediting entity understands that the requirements of articles 7 and 8 were not fulfilled.

Paragraph 1. An appeal to the CVM of the decision to deny the request for accreditation is possible, within 10 (ten) business days, counted from its knowledge by the applicant.

Paragraph 2. The appeal referred to in paragraph 1 must be analyzed by the Market Relations and Intermediaries Commissioner – SMI within 10 (ten) business days, counted from its receipt.

Section III - Suspension of Accreditation

Art. 10. The accrediting entity shall suspend accreditation at the request of the investment agent, provided that the applicant proves that he/she is not active, in the form provided for in item I of article 25.

Paragraph 1. The suspension of accreditation must be communicated to the CVM by the accrediting entity and implies the automatic suspension of the registration of the investment agent.

Paragraph 2. The suspension shall be valid for 1 (one) year from its granting and can be reversed at any time at the request of the investment agent.

Paragraph 3. The suspension shall only be granted if at least 3 (three) years have elapsed from the date of granting the accreditation of the investment agent or from the end of his/her last request for suspension.

Section IV - Cancellation of Accreditation

Art. 11. The accrediting entity shall cancel the accreditation of the investment agent in cases of:

I - request made by the investment agent;

II - identification of vices or flaws in the accreditation process;

III - loss of any of the necessary conditions for accreditation;

IV - non-compliance with the conditions established in the continued education program provided for in item II of article 25; and

V - application, by the CVM, of the penalties provided for in items III to VIII of article 11 of Law nº 6,385 of 1976.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Subsection I - Cancellation of Accreditation through Request

Art. 12. The cancellation of the accreditation through request depends on the proof, by the investment agent, that he/she is not active, in the form provided for in item I of article 25.

Sole paragraph. The cancellation of the accreditation through request shall be communicated to the CVM for the purpose of automatic cancellation of the registration of the investment agent.

Subsection II - Cancellation of Accreditation by the Accrediting Entity

Art. 13. Having occurred the situations described in items II and III of article 11, the accrediting entity must request prior manifestation of the investment agent, within 10 (ten) business days, before deciding on the cancellation.

Art. 14. The decision to cancel the accreditation by the accrediting entity shall be communicated immediately to the investment agent, clarifying the reasons for its decision.

Paragraph 1. The investment agent with a cancelled accreditation in the form of the head provision may, within 10 (ten) business days, submit a request for reconsideration to the accrediting entity.

Paragraph 2. If there is no reconsideration of the decision, the accrediting entity must send the petition to the SMI, as an appeal with suspensive effect, so that, within 10 (ten) business days, the cancellation is confirmed or not.

CHAPTER III - RULES OF CONDUCT

Section I - General Rules

Art. 15. The investment agent must act with probity, good faith, and professional ethics, employing in the exercise of the activity all the care and diligence expected of a professional in his/her position, regarding clients and the member institution of the securities distribution system by which he/she has been contracted.

Sole paragraph. The investment agent shall:

I - observe the provisions of this Resolution in the other applicable standards, rules, and procedures established by the member institution of the securities distribution system by which he/she has been contracted; and

II - ensure the confidentiality of confidential information to which he/she has access in the exercise of the function.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Art. 16. The materials used by the investment agent in the exercise of the activities provided for in this Resolution shall:

I - be in line with the provisions of article 15 of this Resolution;

II - be previously and expressly approved by the member institution of the securities distribution system by which the investment agent has been contracted;

III - make express reference to such institution, as a contractor, identifying the agent as a contracted, and present the contact details of the institution's Ombudsman; and

IV - in the case of legal entities established pursuant to article 2, identify each of the agents that are its members.

Paragraph 1. The following are prohibited:

I - the adoption of logos or distinctive signs of the investment agent or of the legal entity of which he/she is a partner, unaccompanied by the identification of the member institution of the securities distribution system by which he/she has been contracted, with at least equal prominence; and

II - the reference to the relationship with the member institution of the securities distribution system through expressions that make it difficult to understand the nature of the existing bond, such as “partner”, “associate”, or “affiliate”.

Paragraph 2. The provisions of this article also apply:

I - to the handouts and any other material used in courses and lectures given by the investment agent or promoted by the legal entity of which he/she is a partner; and

II - to webpages.

Paragraph 3. The provisions of item II of the head provision does not apply to agents who exclusively distribute investment fund shares to qualified investors, in any event observing the obligations of the fund manager under the specific regulations issued by the CVM that provides for investment funds concerning promotional material and the duty to report changes in the fund, especially if arising from the amendment of its regulations.

Art. 17. The activity of providing information by the investment agent shall be subject to the same rules established for other professionals working in the member institution of the securities distribution system by which he has been contracted.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Section II - Prohibitions

Art. 18. It is prohibited to the investment agent or the legal entity constituted in the form of article 2:

I - maintain a contract for the provision of the services related in paragraph 1 of article 1 with more than one member institution of the securities distribution system;

II - receive from customers or on behalf of customers, or deliver to them, for any reason, including as remuneration for the provision of any services, cash, securities, or other assets;

III - be an attorney or representative of customers before member institutions of the securities distribution system, for any purpose;

IV - contract with customers or perform, even free of charge, securities portfolio administration services, consulting, or analysis of securities;

V - act as a member institution of the securities distribution system with which one does not have a contract for the provision of the services related in paragraph 1 of article 1;

VI - delegate to third parties, in whole or in part, the execution of the services that are the subject of the contract concluded with the member institution of the securities distribution system by which he/she has been contracted;

VII - use passwords or electronic signatures for the exclusive use of the customer for the transmission of orders through an electronic system; and

VIII - prepare and send to customers statements containing information about the operations carried out or open positions.

Paragraph 1. To perform the activities of portfolio management, consulting, or analysis of securities, the investment agent registered by CVM for the exercise of those activities in the form of the regulations in force must request the cancellation of his/her accreditation as an investment agent with the accrediting entity.

Paragraph 2. The provisions of item I do not apply to the activity of distribution of shares of investment funds by investment agents.

Paragraph 3. In the case of the previous paragraph, each of the member institutions of the securities distribution system that has contracted the agent shall take the necessary measures to ensure compliance with the provisions of items I and II of article 22.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

Paragraph 4. The investment agent who contracts with an intermediary through a legal entity in the form of article 2 cannot be contracted directly by another intermediary.

CHAPTER IV - OBLIGATIONS AND RESPONSIBILITIES OF INTERMEDIARIES

Art. 19. The member institution of the securities distribution system is responsible for verifying the regularity of the registration of investment agents contracted by it and formalizing, by means of a written contract, its relationship with such investment agents.

Paragraph 1. The member institution of the securities distribution system shall maintain, while the contract referred to in the head provision is in force, for a minimum period of 5 (five) years from its termination, or a longer period by express determination of the CVM or the accrediting entity, in case of administrative proceedings, all records, documents, and communications, internal and external, including electronic, related to the contracting and provision of services of each agent contracted by it.

Paragraph 2. The provisions of article 27 apply to the maintenance of the documents covered by this article.

Art. 20. The member institution of the securities distribution system is liable to customers and to any third party for the acts performed by an investment agent contracted by it.

Art. 21. The member institution of the securities distribution system that contracts an investment agent shall keep up-to-date, on its webpage and on the CVM webpage, the list of investment agents it has contracted.

Paragraph 1. The relationship referred to in the head provision shall be updated within 5 (five) business days, counted from the corresponding contract, alteration of the contract, or termination.

Paragraph 2. In case of contracting a legal entity, all its partners must be registered in the relationship referred to in the head provision.

Art. 22. The member institution of the securities distribution system shall:

I - extend to the investment agents contracted by it, directly or through a legal entity, in the form of article 2, the application of the rules, procedures, and internal controls adopted by it;

II - supervise the activities of investment agents acting on their behalf to ensure compliance with the provisions of this Resolution and the rules and procedures established in accordance with item I;



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

III - communicate to the CVM and the competent self-regulatory entities as soon as it become aware, the conduct of the investment agents contracted by it that may constitute evidence of infringement of the standards issued by the CVM;

IV - communicate to the competent self-regulatory entities as soon as it becomes aware, the conduct of the investment agents contracted by it that may constitute evidence of infringement of standards or regulations issued by them;

V - disclose the set of rules arising from item I, as well as their updates, on its webpage; and

VI - appoint a director responsible for the implementation and compliance of items I to V, as well as identify him/her and provide his/her contact details on its webpage.

Paragraph 1. The following are included in the supervisory mechanisms referred to in item II, at least:

I - the monitoring of the operations of the customers, including the periodic contacts;

II - the monitoring of the operations subject of the investment agents, to which the same rules and procedures applicable to related persons should apply, in the form of the regulations in force; and

III - the verification of data systems that allow identifying the provenance of orders issued by electronic means, indications of irregular use of access forms, and irregular administration of customers' portfolios.

Paragraph 2. Without prejudice to the provisions of paragraph 1, when registering customers presented by investment agents, the member institution must communicate to the customers the regime of action of investment agents, their limits, and prohibitions.

Paragraph 3. The communication referred to in paragraph 2 must be made by means of its own document, and the institution must take all necessary measures to ensure its reception by the customer and the understanding of its content.

Paragraph 4. The rules, procedures, and controls arising from item I of the head provision shall provide for the forms in which situations of conflict of interest are identified and managed.

Art. 23. The member institution of the securities distribution system is responsible for the payment of periodic compensation arising from the accreditation of the investment agent, prohibiting the transfer of the charge to the investment agent contracted by it.



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

CHAPTER V - ACCREDITING ENTITIES

Art. 24. The CVM may authorize the accreditation of investment agents by accrediting entities that prove to have an adequate structure and technical capacity for the fulfillment of the obligations provided for in this Resolution.

Art. 25. Accrediting entities shall:

I - prepare a regulation containing the procedures to be observed in the application for granting, suspension, or cancellation of accreditation of investment agents;

II - institute a continued education program, with the objective that the investment agents accredited by them periodically update and improve their technical capacity;

III - maintain on file, in accordance with article 27, all documents and records, including electronic, that prove compliance with the requirements contained in this Resolution;

IV - maintain up-to-date the register of all investment agents accredited by them; and

V - advertise on its website and on the CVM website:

a) the list of investment agents accredited by them, identifying the legal entities constituted in the form of article 2 of which they are partners, if applicable;

b) the list of legal entities constituted in the form of article 2, identifying each of the agents that are members; and

c) identify the member institution of the securities distribution system with which the agents and legal entities maintain a contract for the provision of services related to paragraph 1 of article 1.

Sole paragraph. The CVM shall approve in advance:

I - the regulation referred to in item I of the head provision; and

II - the continued education program.

Art. 26. The accrediting entities, through their responsible director, shall send to the CVM:

I - within 5 (five) business days, the registration data of investment agents and legal entities constituted in the form of article 2 that:

a) obtain their accreditation;



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

b) have their accreditation suspended or cancelled upon request, in the form of articles 10 or 12; and

c) have their accreditation cancelled in the cases of items II and III of article 11, without the filing of a request for reconsideration by the investment agent;

II - immediately upon knowledge, information on evidence of serious infringement of the standards of this Resolution, in the form of article 28;

III - by January 31st of each year, a report of accountability of the activities performed out by the accrediting entity for the fulfillment of the obligations established in this Resolution, indicating the main responsible for each of them; and

IV - whenever requested, any documents and information related to its activities.

CHAPTER VI - ARCHIVES MAINTENANCE

Art. 27. The member institutions of the securities distribution system and the accrediting entities shall maintain, for a minimum period of 5 (five) years, or for a longer period by express determination of the CVM, all documents and information required by this Resolution.

Paragraph 1. Scanned images are allowed in substitution to the original documents, provided that the process is conducted in accordance with the federal legislation on the preparation and filing of public and private documents in electromagnetic media, and with the federal regulation that establishes the technique and requirements for the digitization of these documents.

Paragraph 2. The document of origin may be discarded after its scanning unless it presents material damage that impairs its readability.

CHAPTER VII - PENALTIES

Art. 28. It constitutes a serious infringement, for the purpose of the provisions of paragraph 3 of article 11 of Law nº 6,385 of 1976:

I - the exercise of the activity of investment agent in disagreement with the provisions of articles 3, 15, and 16 of this Resolution;

II - obtaining accreditation of an investment agent or a legal entity established in the form of article 2 on the basis of false statements or documents; and



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CVM RESOLUTION Nº 16 OF FEBRUARY 9TH, 2021

III - the non-observance of the prohibitions established in article 18 of this Resolution.

CHAPTER VIII - FINAL PROVISIONS

Art. 29. CVM Instruction nº 497 of June 3rd, 2011, CVM Instruction nº 515 of December 29th, 2011, and CVM Instruction nº 610 of August 5th, 2019 are repealed as of the entry into force of this Resolution.

Art. 30. This Resolution comes into force on March 1st, 2021.

Electronically signed by

MARCELO BARBOSA

President