

Term for the delivery of the Annual Foreign Capital Census in Brazil

According to the Brazilian Central Bank ("BACEN") Circular nº 3.795, dated of June 16, 2016, the following are obliged present the Annual Foreign Capital Census in Brazil: a) legal entities and/or investment funds with direct participation of non-residents in its share capital and net equity equal or higher than the equivalent to USD 100 million on the respective base date; and b) legal entities headquartered in Brazil, with outstanding balance of short-term trade debts with nonresidents equal to or higher than the equivalent to US\$ 10 million on the respective base date.

Gasparini, Nogueira de Lima e Barbosa Advogados prepared the material below to clarify eventual doubts.

1) What is the Normative Basis?

The Foreign Capital Census Declarations in Brazil ("Annual" and "Five-Year") are provided for in the BACEN Circular Nº 3,795, dated of June 16, 2016 and published in the Official Gazette of the Union on June 17, 2016.

2) What is the deadline for submission of the Annual Census Declarations 2020 ?

For the year 2020, the declarations must be delivered to BACEN between July 1 and August 17, 2020, at 6 pm, with the base date December 31, 2019.

3) How to make the Annual Census Declaration?

All declarations must be made through the completion of the form available at the BACEN website (www.bcb.gov.br).

4) Who is required to file the Annual Census Declarations?

- a) legal entities based in the country, that have direct participation of non-residents in its share capital in any amount and with shareholders' equity equal to or higher than the equivalent to USD 100 million (one hundred million United States dollars) as of December 31, 2019;
- b) investment funds with non-resident shareholders and shareholders' equity equal to or greater than the equivalent to USD 100 million (one hundred million United States dollars) as of December 31, 2019, through its officers; and
- c) legal entities headquartered in the country, with outstanding balance of short-term trade debts (due within 360 days) with nonresidents equal to or higher than the equivalent of US\$ 10 million (ten million United States dollars) as of December 31, 2019.

5) Who is exempted from filing the Annual Census Declarations?

- a) natural persons;
- b) the direct administration of the Union, States, Federal District and Municipalities;
- c) legal entities that are debtors of foreign credit transfers granted by institutions based in Brazil; and
- d) non-profit entities maintained by contribution of non-residents.

6) Penalties

In case the entities and the investments funds: (i) do not present the statements to the BACEN; (ii) present the statements out of the established deadline; or (iii) present false and/or uncompleted statements, they may be subject to pecuniary penalties provided by the Resolution Nº 4.104/2012 of National Monetary Council.