
2011 CENSUS OF FOREIGN CAPITAL IN BRAZIL

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According to the Central Bank Normative no. 3.559, regulated by Law no. 4.131 from 1962, articles 55 to 57 - on October 3, 2011, the Brazilian Central Bank ("Bacen") started gathering information regarding the 2011 Census of Foreign Capital in Brazil.

Held every five years since 1995, the Census survey is carried out by Bacen to update knowledge and to study changes in the Brazilian economy as far as foreign investment is concerned.

Generally speaking, the purpose of the Census is to collect statistical information about the country's external indebtedness, which includes both foreign direct investment and foreign credits - debt contracted by Brazilian based entities with non-resident lenders in order to improve the quality of existing information about the inflow of foreign capital in the Brazilian economy.

The statements must be delivered, compulsory, by the entities appointed on the Central Bank Normative mentioned above, between 9:00 am on October 3 until 8:00 pm on November 1st, 2011, under the penalty of fines of up to R\$250.000,00 (equivalent to approximately USD135,000.00)¹

The base date referred to the Census is December 31, 2010 and will be demonstrated through the balance sheet for the year 2010, as it is in accordance to international accounting standards (International Financial Reporting Standards - IFRS).

Any person authorized by the legal entity which is obliged to comply with the rules of the Census can provide the statement for the Census on its behalf.

It is necessary to register and to create a login for the Brazilian Central Bank's system in order to access the on-line Census and to provide the information requested as well as to submit the Census statement.

For purposes of definition, it is considered a non-resident (i) the individual (ii) or the legal entity based outside Brazil.

Below we illustrate who is Obligated to comply with the Census and who is not obliged to comply.

Almeida Advogados has a specialized team and is prepared to submit Census statement to the Brazilian Central Bank to its clients.

¹ As per articles 6 and 58 of Law n. 4.131/62 with changes provided by MP n. 224 from 2001.

Mandatory Compliance

(i) Entities established in Brazil with direct investment from non-residents in its corporate capital either as quota holder or as a shareholder, in December 31, 2010;

(ii) Entities established in Brazil that appear as debtor of loans granted by non-residents with an outstanding balance of at least the equivalent to U.S. \$ 1,000,000.00 (one million dollars) on December 31, 2010; or

(iii) Investment funds with non-resident shareholders must report the total applications of the non-residents, listing the ones that have, individually, holding equal to or greater than 10% of asset funds.

Not Obligated to Comply

(i) individuals in general that figure as debtor of an external loan, regardless of whether those individuals are resident or non-resident in Brazil;

(ii) direct administrative bodies of the Brazilian Federal, State, and Municipal government;

(iii) corporate entities debtors of onlendings of foreign credit granted by institutions located in the country;

(iv) nonprofit entities which are maintained by the contribution of non-residents.