

OFFICIAL DIARY OF THE UNION

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Body: Acts of the Legislative Power

LAW NO. 14,286, OF DECEMBER 29, 2021

Provides for the Brazilian foreign exchange market, Brazilian capital abroad, foreign capital in the country and the provision of information to the Central Bank of Brazil; amends Laws No. 4,131, of September 3, 1962, 4,728, of July 14, 1965, 8,383, of December 30, 1991, 10,192, of February 14, 2001, and 11,371, of November 28, 2006, and Decree No. 23,258, of October 19, 1933; and revokes Laws No. 156, of November 27, 1947, 1,383, of June 13, 1951, 1,807, of January 7, 1953, 2,145, of December 29, 1953, 2,698, of December 27, 1955, 4,390, of August 29, 1964, 5,331, of October 11, 1967, 9,813, of August 23, 1999, and 13,017, of July 21, 2014, Decree-Laws no. 1,201, of April 8, 1939, 9,025, of February 27, 1946, 9,602, of August 16, 1946, 9,863, of September 13, 1946, and 857, of September 11, 1969, Provisional Measure No. 2,224, of September 4, 2001, and provisions of Laws No. 4,182, of November 13, 1920, 3,244, of August 14, 1957, 4,595, of December 31, 1964, 5,409, of April 9, 1968, 6,099, of September 12, 1974, 7,738, of March 9, 1989, 8,021, of April 12, 1990, 8,880, of May 27, 1994, 9,069, of June 29, 1995, 9,529, of 10 of December 1997, 11,803 of November 5, 2008, 12,865 of October 9, 2013, 13,292 of May 31, 2016, and 13,506 of November 13, 2017, and Decree-Laws no. 2,440, of July 23, 1940, 1,060, of October 21, 1969, 1,986, of December 28, 1982, and 2,285, of July 23, 1986.

THE PRESIDENT OF THE REPUBLIC

I make it known that the National Congress decrees and I sanction the following Law:

CAPÍTULO I

PRELIMINARY PROVISIONS

Art. 1 This Law provides for the Brazilian foreign exchange market, Brazilian capital abroad, foreign capital in the country and the provision of information to the Central Bank of Brazil, for the purpose of compiling official macroeconomic statistics.

Single paragraph. For the purposes of the provisions of this Law, observing the regulation to be issued by the Central Bank of Brazil, it is considered:

I - resident: the individual or legal entity residing, domiciled or headquartered in Brazil;

II - non-resident: the individual or legal entity residing, domiciled or headquartered abroad.

CHAPTER II

EXCHANGE MARKET

Art. 2 The operations in the foreign exchange market can be carried out freely, without limitation of value, observing the legislation, the guidelines established by the National Monetary Council and the regulation to be edited by the Central Bank of Brazil.

Single paragraph. The exchange rate is freely agreed between institutions authorized to operate in the foreign exchange market and between said institutions and their customers.

Art. 3 The operations in the foreign exchange market can only be carried out through institutions authorized to operate in this market by the Central Bank of Brazil, in the form of the regulation to be edited by this autarchy.

Art. 4 The institution authorized to operate in the foreign exchange market is responsible for:

I - for the identification and qualification of its customers;

II - for ensuring the lawful processing of transactions in the foreign exchange market.

§ 1 The institution referred to in the **caput** of this article shall adopt measures and controls aimed at preventing the performance of operations in the foreign exchange market for the practice of illicit acts, including money laundering and the financing of terrorism, under the terms of Law No. 9,613 , of March 3, 1998, in compliance with the regulations to be issued by the Central Bank of Brazil.

§ 2 It is the customer's responsibility to classify the purpose of the transaction in the foreign exchange market, as provided for in the regulation to be issued by the Central Bank of Brazil.

§ 3 The institutions authorized to operate in the foreign exchange market will provide guidance and technical support, including through virtual means, for customers who need support for the correct classification of the purpose of the transaction in the foreign exchange market, which is dealt with in § 2 of this article. .

Article 5. It is incumbent upon the Central Bank of Brazil:

I - regulate the foreign exchange market and its operations, including **swap** operations , and provide for the types and characteristics of products, forms, limits, rates, terms and other conditions;

II - discipline the constitution, operation and supervision of institutions authorized to operate in the foreign exchange market, including when they involve non-resident participation;

III - authorize the constitution, operation, transfer of control, merger, spin-off and incorporation of institutions authorized to operate in the foreign exchange market, including when they involve non-resident participation;

IV - authorize operating institutions to operate in the foreign exchange market, including when they involve non-resident participation;

V - cancel, ex officio or upon request, under the terms of the regulation to be edited by the Central Bank of Brazil, the authorizations dealt with in items III and IV of this **caput** ;

VI - authorize, under the terms of the regulation to be issued by the Central Bank of Brazil, the tenure and exercise in the management bodies or in the bodies provided for in the statute or in the articles of association of institutions authorized to operate in the foreign exchange market;

VII - supervise institutions authorized to operate in the foreign exchange market, for the purposes of the provisions of this Law, and apply the applicable sanctions referred to in art. 20 of this Law;

VIII - regulate accounts in reais held by non-residents, including the requirements and procedures for opening and handling them;

IX - regulate foreign currency accounts in the country, including the requirements and procedures for opening and handling them;

X - maintain the deposit and clearing, settlement and custody accounts, in reais and in foreign currency, held by international organizations, observing the limits, deadlines, forms and conditions established in the regulation to be issued by the Central Bank of Brazil;

XI - maintain deposit and clearing, settlement and custody accounts, in reais, held by foreign central banks or by institutions domiciled or headquartered abroad that provide clearing, settlement and custody services in the international market, subject to the limits, the terms, forms and conditions established in the regulation to be edited by the Central Bank of Brazil.

§ 1 In the exercise of the supervisory activities referred to in this article, the Central Bank of Brazil may require from institutions authorized to operate in the foreign exchange market the provision of data and information and the display of documents and bookkeeping books, kept in physical media. or digital,

including for the evaluation of its active and passive operations and the risks assumed, considering the denial of service as an embarrassment to the inspection, subject to the applicable sanctions mentioned in art. 20 of this Law.

§ 2 The assets of international organizations and foreign central banks held in the accounts dealt with in items X and XI of the **caput** of this article are unseizable and immune from execution when used in the performance of their own functions and may not be subject to seizure, kidnapping, search and seizure or other act of judicial constraint.

§ 3 The provisions of art. 6 of Law No. 10,214, of March 27, 2001, to the assets of institutions domiciled or headquartered abroad that provide clearing, settlement and custody services in the international market, kept in the accounts referred to in item XI of the **caput** of this article.

§ 4 Accounts in reais held by non-residents referred to in item VIII of the **caput** of this article shall have the same treatment as accounts in reais held by residents, except for the requirements and procedures that the Central Bank of Brazil may establish, including in relation to transactions carried out in the manner provided for by art. 6 of this Law.

Article 6. In accordance with the regulation to be issued by the Central Bank of Brazil, banks authorized to operate in the foreign exchange market may comply with payment orders in reais received from abroad or sent abroad, through the use of accounts in held in banks, owned by institutions domiciled or headquartered abroad and subject to financial regulation and supervision in their country of origin.

Single paragraph. Within the scope of international correspondent banking relationships in reais, the banks mentioned in the **caput** of this article must obtain information about the institution domiciled or headquartered abroad, in order to fully understand the nature of its activity, its reputation and the quality of financial supervision. to which it is subject and evaluate its internal controls in the fight against money laundering and the financing of terrorism.

Article 7. The cancellation or write-off in the exchange position referring to foreign currency purchase contracts that support advances in reais subject the foreign currency seller to the payment to the Central Bank of Brazil of a financial charge not exceeding 100% (one hundred percent) of the advance amount.

§ 1 The institution authorized to operate in the exchange market that purchases foreign currency is responsible for paying the Central Bank of Brazil the financial charge mentioned in the **caput** of this article.

§ 2 The National Monetary Council shall regulate the provisions of this article and provide for the method of calculating the financial charge referred to in the **caput** of this article and on the cases in which its collection will be waived, with the establishment of differentiated treatment being prohibited due to the nature of the seller of foreign currency or its productive sector.

CHAPTER III

THE BRAZILIAN CAPITAL ABROAD AND THE CAPITAL

FOREIGNERS IN THE COUNTRY

Art. 8 For the purposes of the provisions of this Law, the following are considered:

I - Brazilian capital abroad: values, assets, rights and assets of any nature held outside the national territory by residents;

II - foreign capital in the Country: the values, goods, rights and assets of any nature held in the national territory by non-residents.

Single paragraph. The Central Bank of Brazil is authorized to provide for the cases in which, considering the nature of the operations:

I - capital of residents, held in the national territory in favor of non-residents, shall be equivalent to Brazilian capital abroad;

II - capital of non-residents, held abroad in favor of residents, will be equivalent to foreign capital in the country.

Art. 9. Foreign capital in the country will be given legal treatment identical to that granted to national capital under equal conditions.

Art. 10. It is incumbent upon the Central Bank of Brazil:

I - regulate and monitor Brazilian capital abroad and foreign capital in the country regarding their flows and stocks;

II - establish procedures for remittances referring to foreign capital in the country, in compliance with the legislation, the economic foundation of operations and the conditions usually observed in international markets;

III - request, at its discretion, information on Brazilian capital abroad and foreign capital in the country, in compliance with the regulations to be issued by the Central Bank of Brazil, which may also provide for those responsible, the forms, terms and the criteria for providing information and the situations in which it will be waived.

Single paragraph. Infractions to the regulations referred to in the **caput** of this article subject those responsible to the penalties applicable by the Central Bank of Brazil, pursuant to the sole paragraph of art. 20 of this Law.

CHAPTER IV

INFORMATION FOR THE COMPILATION OF OFFICIAL MACROECONOMIC STATISTICS BY BANCO CENTRAL DO BRASIL

Art. 11. The Central Bank of Brazil is authorized to request from residents the information necessary for the compilation of official macroeconomic statistics.

§ 1 Without prejudice to the fulfillment of requests for information formulated for the purpose of investigating crimes and other irregularities by the competent authorities, under the terms of the legislation in force, the Central Bank of Brazil and its agents will keep confidential the individual information obtained in the form of this article. , its use permitted exclusively for the purpose of compiling statistics or for the purposes set out in § 2 of this article.

§ 2 Individual information obtained in the form of this article, treated in a way that does not allow, directly or indirectly, the identification of its holder, may be made available by the Central Bank of Brazil to subsidize studies and research, upon presentation of a reasoned request and signature of a term of commitment on the part of the interested party.

§ 3 The Central Bank of Brazil will regulate the provisions of this article and may provide for the conditions, detail, frequency and periodicity for the provision of information and on the conditions for access to information under the terms of § 2 of this article.

§ 4 The regulation referred to in § 3 of this article shall consider the statistical standard adopted by the Central Bank of Brazil, the best international practices in terms of statistical standards and the reasonableness of the cost of compliance with them for individuals and legal entities obliged to provide information.

§ 5 Infractions to the regulations dealt with in this article subject those responsible to the penalties applicable by the Central Bank of Brazil, in the form of the sole paragraph of art. 20 of this Law.

CHAPTER V

GENERAL PROVISIONS

Art. 12. The private offsetting of credits or values between residents and non-residents is authorized, in the cases provided for in the regulation of the Central Bank of Brazil.

§ 1 In the regulation mentioned in the **caput** of this article, the Central Bank of Brazil may require residents to provide information on the performance of private compensation, subject to the terms, forms and other conditions provided for therein.

§ 2 Violations of the provisions of this article and of the regulation to be issued by the Central Bank of Brazil subject those responsible to the penalties applicable by the Central Bank of Brazil, pursuant to the sole paragraph of art. 20 of this Law.

Art. 13. The stipulation of payment in foreign currency of obligations enforceable in the national territory is allowed in the following situations:

I - in contracts and securities relating to foreign trade in goods and services, their financing and guarantees;

II - in obligations whose creditor or debtor is a non-resident, including those arising from credit or leasing operations, except in the lease contracts of real estate located in the national territory;

III - in leasing contracts entered into between residents, based on raising funds from abroad;

IV - in the assignment, transfer, delegation, assumption or modification of the obligations referred to in items I, II and III of the **caput** of this article, even if the parties involved are residents;

V - in the purchase and sale of foreign currency;

VI - in the indirect export referred to in Law No. 9,529, of December 10, 1997;

VII - in contracts entered into by exporters in which the counterparty is a concessionaire, licensee, authoritative or lessee in the infrastructure sectors;

VIII - in the situations provided for in the regulations issued by the National Monetary Council, when the stipulation in foreign currency can mitigate the exchange risk or increase the efficiency of the business;

IX - in other situations provided for in the legislation.

Single paragraph. The stipulation of payment in foreign currency made in disagreement with the provisions of this article is null and void.

Art. 14. The entry into the country and the exit of the country of national and foreign currency must be carried out exclusively through an institution authorized to operate in the foreign exchange market, which will be responsible for identifying the client and the recipient or sender.

§ 1 The provisions of the **caput of** this article do not apply to the carrying, in cash, of values:

I - up to US\$ 10,000.00 (ten thousand United States dollars) or its equivalent in other currencies; and

II - whose entry into the country or exit from the country is proven in accordance with the regulation referred to in § 4 of this article.

§ 2° Observing the guidelines of the National Monetary Council, the Central Bank of Brazil will regulate the provisions of the **caput of** this article and may provide for:

I - the form, limits and conditions for entering the country and leaving the country of national or foreign currency;

II - the types of institutions authorized to operate in the foreign exchange market that will not be able to enter the country and leave the country with national or foreign currency, considering the size, nature and business model of the institutions.

§ 3 Non-compliance with the provisions of this article will result, after due legal process, in the forfeiture of the amount exceeding the limits referred to in § 1 of this article in favor of the National Treasury, in addition to the criminal sanctions provided for in specific legislation.

§ 4 It is incumbent upon the Special Secretariat of the Federal Revenue of Brazil of the Ministry of Economy to regulate the provisions of § 1 of this article and apply the forfeiture penalty referred to in § 3 of this article, in the form of §§ 1, 2, 3, 4, 5th and 6th of art. 89 of Provisional Measure No. 2,158-35, of August 24, 2001, and other provisions contained in the applicable legislation.

Art. 15. Financial institutions and other institutions authorized to operate by the Central Bank of Brazil, subject to the activities permitted by law, may allocate, invest and allocate for credit and financing operations, in the country and abroad, funds raised in Brazil and abroad, in compliance with the regulatory and prudential requirements established by the National Monetary Council and the Central Bank of Brazil.

Art. 16. The provisions of item "a" of art. 4 of Law No. 1,521, of December 26, 1951, does not apply to foreign exchange transactions carried out pursuant to this Law.

Art. 17. The Central Bank of Brazil may enter into agreements to share information with agencies and entities of the federal public administration, according to their areas of competence, in compliance with the legislation on banking secrecy and on tax secrecy.

Art. 18. In the regulation of this Law, the Central Bank of Brazil:

I - may establish different requirements and procedures, according to a proportionality criterion, considering aspects such as value, risk and other characteristics of the operation in the foreign exchange market, Brazilian capital abroad or foreign capital in the country;

II - may, considering the scope of activity of the institution interested in operating in the foreign exchange market, the volume, nature, innovation capacity and risks of its business:

a) establish differentiated and proportionate requirements for the constitution and operation of institutions authorized to operate in the foreign exchange market;

b) waive the authorization for the constitution and operation of the institutions referred to in item "a" of this item.

Art. 19. The provisions of this Law do not apply to operations of purchase or sale of foreign currency in cash, in the amount of up to US\$ 500.00 (five hundred United States dollars) or its equivalent in other currencies, carried out in the Country, occasionally and non-professionally, between individuals.

CHAPTER VI

FINAL DISPOSITIONS

Art. 20. The provisions of Chapter II and art. 36 of Law No. 13,506, of November 13, 2017, to violations of this Law and the regulations to be issued by the National Monetary Council and the Central Bank of Brazil.

Single paragraph. For the purposes of the provisions of the **caput** of this article, the violations of the legal and regulatory norms dealt with in arts. 10, 11 and 12 of this Law arts. 2, 3 and 4 and items I, III, V and VI of the **caput** of art. 5 of Law No. 13,506, of November 13, 2017.

Art. 21. Art. 6-A of Decree No. 23,258, of October 19, 1933, becomes effective with the following wording:

"Article 6-The National Monetary Council shall regulate the provisions of article 3 of this Decree and may establish the gradation of the fine referred to in the **caput** of article 6 of this Decree." (NR)

Art. 22. Art. 9 of Law No. 4,131, of September 3, 1962, becomes effective with the following changes:

"Article 9 Remittances abroad in the form of profits, dividends, interest, amortization, **royalties**, scientific, administrative and similar technical assistance depend on proof of payment of the tax on income due, if applicable.

§ 1 (Revoked).

§ 2 (Revoked).

§ 3 (Revoked)." (NR)

Art. 23. Law No. 4,728, of July 14, 1965, becomes effective with the addition of the following art. 9-A:

"Article 9-A. It is incumbent upon the Central Bank of Brazil, in compliance with the guidelines of the National Monetary Council, without prejudice to the provisions of Law No. 6,385, of December 7, 1976:

I - regulate the conditions of incorporation and operation of securities brokerage companies, exchange brokerage companies and securities distributor companies;

II - authorize the constitution and operation and supervise the activities of securities brokerage companies, exchange brokerage companies and securities distributor companies.

Single paragraph. For the purposes of this article, the provisions of Law No. 4,595, of December 31, 1964, Law No. 6,024, of March 13, 1974, Decree-Law No. 2,321, of February 25, 1987, in Law No. 9,447, of March 14, 1997, in Law No. 13,506, of November 13, 2017, and in the other provisions of the legislation

referring to financial institutions:

I - securities brokerage companies, exchange brokerage companies and securities distributor companies;

II - to the managers and members of the executive board, the board of directors, the fiscal council, the audit committee and other bodies provided for in the bylaws or in the articles of association of the companies referred to in item I of this paragraph;

III - to individuals and legal entities and to managers and technical managers of legal entities that provide independent auditing services to the companies referred to in item I of this paragraph."

Art. 24. Art. 50 of Law No. 8,383, of December 30, 1991, becomes effective with the following changes:

"Article 50. The expenses referred to in item "b" of the sole paragraph of article 52 and in item 2 of item "e" of the sole paragraph of article 71 of Law No. 4,506, of November 30, 1964, arising from contracts that, after December 31, 1991, are signed and registered at the National Institute of Industrial Property (INPI), become deductible for purposes of calculating the real profit, subject to the limits and conditions established by law.

Single paragraph. (Revoked)." (NR)

Art. 25. Item I of the sole paragraph of art. 1 of Law No. 10,192, of February 14, 2001, becomes effective with the following wording:

"Art. 1º"

Single paragraph.

I - payment expressed or linked to gold or foreign currency, except in the cases provided for by law or in the regulations issued by the Central Bank of Brazil;

....." (NR)

Art. 26. Art. 1 of Law No. 11,371, of November 28, 2006, becomes effective with the following changes:

"Article 1 The maintenance abroad of funds in foreign currency related to receipts of Brazilian exports of goods and services abroad, carried out by individuals or legal entities residing, domiciled or headquartered in the country, is permitted.

§ 1 (Revoked).

§ 2 (Revoked)." (NR)

Art. 27. The institution authorized to operate in the foreign exchange market may not demand documents, data or certificates from the client that are available in its databases or in public and private databases with wide access.

Single paragraph. Regardless of the provisions of the **caput** of this article, the customer is entitled to choose to present the documents, data or certificates mentioned in the **caput** of this article.

Art. 28. The following are hereby revoked:

I - Law No. 156, of November 27, 1947;

II - Law No. 1,383, of June 13, 1951;

III - Law No. 1,807, of January 7, 1953;

IV - Law No. 2,145, of December 29, 1953;

V - Law No. 2,698, of December 27, 1955;

VI - Law No. 4,390, of August 29, 1964;

VII - Law No. 5,331, of October 11, 1967;

VIII - Law No. 9,813, of August 23, 1999;

IX - Law No. 13,017, of July 21, 2014;

- X - Decree-Law No. 1,201, of April 8, 1939;
- XI - Decree-Law No. 9025, of February 27, 1946;
- XII - Decree-Law No. 9,602, of August 16, 1946;
- XIII - Decree-Law No. 9,863, of September 13, 1946;
- XIV - Decree-Law No. 857, of September 11, 1969;
- XV - Provisional Measure No. 2,224, of September 4, 2001;
- XVI - art. 5 of Law No. 4,182, of November 13, 1920;
- XVII - the arts. 48, 49, 50, 51, 52, 53, 54 and 55 of Law No. 3,244, of August 14, 1957;
- XVIII - the following provisions of Law No. 4,131, of September 3, 1962:
- a) arts. 1º, 2º, 3º, 4º, 5º, 6º, 7º and 8º;
 - b) §§ 1º, 2º and 3º do art. 9º;
 - c) arts. 10 and 11;
 - d) art. 14;
 - e) arts. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30;
 - f) arts. 34, 35, 36, 37, 38, 39, 40 and 41;
 - d) art. 46; e
 - h) arts. 50, 51, 52, 53, 54, 55, 56 and 57;
- XIX - the following provisions of Law No. 4,595, of December 31, 1964:
- a) item XXXI of the **caput** of art. 4th; and
 - b) art. 57;
- XX - the following provisions of Law No. 4,728, of July 14, 1965:
- a) item VI of the **caput** of art. 2nd;
 - b) art. 9º;
 - c) arts. 22, 23, 24 and 25; e
 - d) § 3º do art. 31;
- XXI - an art. 9º of Law No. 5,409, of April 9, 1968;
- XXII - the following provisions of Law No. 6,099, of September 12, 1974:
- a) art. 16; and
 - b) art. 24;
- XXIII - an art. 12 of Law No. 7,738, of March 9, 1989;
- XXIV - art. 9º of Law No. 8,021, of April 12, 1990;
- XXV - the sole paragraph of art. 50 of Law No. 8,383, of December 30, 1991;
- XXVI - o art. 6º of Law No. 8,880, of May 27, 1994;
- XXVII - the following provisions of Law No. 9069, of June 29, 1995:
- a) art. 65; and
 - b) art. 72;
- XXVIII - art. 3 of Law No. 9,529, of December 10, 1997;
- XXIX - the following provisions of Law No. 11,371, of November 28, 2006:
- a) §§ 1 and 2 of art. 1st;
 - b) art. 2º;
 - c) sole paragraph of art. 3rd;

d) art. 4º;

e) art. 5th; and

f) o art. 7º;

XXX - the following provisions of Law No. 11,803, of November 5, 2008:

a) arts. 7º and 8º; e

b) § 1º do art. 10;

XXXI - art. 25 of Law No. 12,865, of October 9, 2013;

XXXII - an art. 5º of Law No. 13,292, of May 31, 2016;

XXXIII - the following provisions of Law No. 13,506, of November 13, 2017:

a) art. 40;

b) arts. 42, 43, 44 and 45; e

c) arts. 59, 60, 61 and 62;

XXXIV - the arts. 1º, 2º and 4º of Decree No. 23,258, of October 19, 1933;

XXXV - art. 3 of Decree-Law No. 2440, of July 23, 1940;

XXXVI - art. 1 of Decree-Law No. 1060, of October 21, 1969;

XXXVII - item II of the **caput** of art. 1 of Decree-Law No. 1986, of December 28, 1982; and

XXXVIII - item II of the **caput** of art. 1 of Decree-Law No. 2,285, of July 23, 1986.

Art. 29. This Law enters into force after 1 (one) year has elapsed since its official publication.

Brasilia, December 29, 2021; 200th of Independence and 133rd of the Republic.

JAIR MESSIAH BOLSONARO

Marcelo Pacheco dos Guarany's

President of the Federative Republic of Brazil

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