

Foreign capital census in Brazil: Attention to the five-year obligation

Base Year 2020

The Foreign Capital Census Declarations in Brazil ("Annual" and "Five-Year") are provided for in the Brazilian Central Bank ("BACEN") Circular No. 3,795, dated June 16th, 2016 and published in the Official Gazette of the Union on June 17th, 2016 and Federal Law No. 4.131, of September 03 1962, articles 55 to 57.

The Five-Year Census is defined as the census referring to the base dates of years ending in zero (0) or five (5) and the Annual Census refers to the base dates of other years.

Currently, the reference base year for the Five-Year Census is 2020, with the reference base date being December 31, 2020.

1. Deadline for Submission of the Five-Year Census Declarations 2021

For the year 2021, the declarations must be delivered to the Brazilian Central Bank between July 1st and August 16th 2021, 6pm, with the base date December 31, 2021.

2. How to make the Five-Year Census Declaration?

All declarations must be made in an online system directly on the BACEN Census page.

3. Who is required to file the Five-Year Census Declarations?

a) all legal entities based in the country, that have direct participation of non-residents in their corporate capital in any amount, as of December 31, 2020;

b) investment funds with non-resident shareholders and shareholders' equity as of December 31, 2020, 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\$ 1 million (one million United States dollars) as of December 31, 2020.

4. Who is exempted from filing the Five-Year 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.

5. Penalties

As per art. 60 of Circular BC No. 3,857, of November 14, 2017, those who do not provide or provide false, incomplete, incorrect information or after the established deadlines will be subject to a fine of up to R\$250,000.00 (two hundred and fifty thousand reais).

For further information, please, contact our Corporate area.

Marcus Phelipe Barbosa de Souza
mph@gnblaw.com.br

Paula Taira Horluti
pta@gnblaw.com.br

Felipe Mavignier
mav@gnblaw.com.br

Débora Cunha Romanov
drv@gnblaw.com.br