

# **FIF AND FIDC**

# **IMPACTS OF RESOLUTION CVM NO. 175 AND CRYPTOCURRENCY INVESTMENTS**



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The Law of Economic Freedom (Law no. 13.874/2019) introduced provisions related to (i) the ability of funds to have segregated assets for each share class and (ii) the application of the concept of civil insolvency to funds, paving the way for legislative innovations that culminated in the New Regulatory Framework for Investment Funds in Brazil introduced by CVM Resolution no. 175/22.

Brazil hosts an investment fund industry that includes approximately 28,000 registered funds with a total accumulated wealth of around 7.5 trillion Brazilian reais, considered the fourth global country that ranks in this industry.

The new regulation reinforces the security of investors' assets. It grants greater power, rights, and prerogatives to the investing public, opening doors to an expanded range of investment options and opportunities. This change limits the investor's risk, which is now confined to the amount invested.

In addition to the provided guidelines, the instruction presents specific guidelines for Financial Investment Funds (FIF) and Credit Receivables Investment Funds (Fundo de Investimento em Direitos Creditórios - FIDC). Furthermore, the instruction also introduces a new provision allowing retail funds to allocate all of their assets abroad. That's why, previously, there was a maximum limit of 20% of assets outside of Brazil for these funds.

These changes bring additional advantages as they enhance transparency regarding service provider compensation structures and simplify active investor involvement in decisions.

Regarding Financial Investment Funds (FIFs), which encompass categories such as Equities, Currency Products, Multimarket, and Fixed Income, the regulatory changes introduce several innovations, including (i) permission to invest in environmental assets such as carbon credits and cryptocurrencies; (ii) expansion of concentration limits by type of financial asset; and (iii) the definition of capital risk exposure limits.

Another relevant aspect to emphasize concerns the freedom granted to retail investors to participate in investments in Credit Receivables Investment Funds (Fundo de Investimento em Direitos Creditórios - FIDC) because previously, according to the existing rules, allocation in this type of fund was restricted to qualified investors, typically comprising professional investors with a minimum net worth of at least 10 million Brazilian reais. With the new provisions, restrictions are relaxed, allowing retail investors to access more complex and diversified fund structures, including those with significant exposure abroad. This results in a notable expansion of the reach of the average investor, who can now allocate resources to assets previously reserved only for qualified investors.

The new CVM Resolution, aiming to align with international practices, introduces an ESG (Environmental, Social, and Governance) agenda into socio-environmental finance by prioritizing information disclosure to the investing public and preventing greenwashing practices. This approach seeks to create a secure environment for the Capital Market to evolve towards sustainability.

Regarding cryptocurrencies, the new CVM Resolution requires that trading these assets, both in Brazil and abroad, occurs on exchanges authorized by financial regulators, ensuring that transactions occur in regulated environments. The regulation's goal is to allow funds to operate in this market segment while maintaining rigorous controls related to the existence, integrity, and ownership of the assets.

# Our recognitions



Análise Advocacia (2021)



Chambers & Partners Brazil (2021 & 2022)



Leaders League (2021, 2022 & 2023)



Transactional Track Record (2021 & 2022)



The Legal 500 (2022)

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