

Presidency of the Republic
Office of the Chief of Staff
Legal Affairs Subsection

SUPPLEMENTARY LAW No. 105, OF JANUARY 10, 2001,

establishes secrecy of financial institutions'
operations and other provisions.

I, the **PRESIDENT OF THE REPUBLIC**, hereby make known that the National Congress decrees and I sanction the following Supplementary Law:

Article 1. Financial institutions shall keep confidentiality of their active and passive transactions and services rendered.

Paragraph 1. For the purposes of this Supplementary Law, the following are considered financial institutions:

- I. banks of any kind;
- II. securities dealers;
- III. foreign currency and securities brokerage houses;
- IV. credit, financing, and investment companies;
- V. real estate financing companies;
- VI. credit card administrators;
- VII. leasing companies;
- VIII. organized over-the-counter markets;
- IX. cooperative credit entities;
- X. savings and loans associations;
- XI. stock, commodities, and futures exchanges;
- XII. settlement and clearing entities;

XIII. other entities which due to the nature of their operations might be included in this list by the National Monetary Council.

Paragraph 2. For the purposes of this Supplementary Law, factoring companies shall comply with the regulations applicable to financial institutions set forth in Paragraph 1.

Paragraph 3. The following actions shall not be considered breach of the duty of confidentiality:

I. exchanging information between financial institutions for registering purposes, including exchange made through risk centers in compliance with the rules and regulations issued by the National Monetary Council and the Central Bank of Brazil;

II. providing information from registers of bad check writers and defaulters to credit protection entities in compliance with the rules and regulations issued by the National Monetary Council and the Central Bank of Brazil;

III. providing information referred to in Paragraph 2 of Article 1 of Law No. 9311, of October 24, 1996;

IV. reporting illicit activities to the competent authorities, including information on transactions that involve proceeds from criminal activities;

V. disclosing confidential information with the express consent of those concerned;

VI. providing information as set forth in Articles 2, 3, 4, 5, 6, 7, and 9 of this Supplementary Law.

VII. providing financial and payment information, regarding ongoing or contracted credit operations and payment obligations of natural and legal persons, to database managers, for purposes of determining credit history, under the terms of the specific law. (Included by Supplementary Law no. 166, of 2019) (In effect)

Paragraph 4. Lift of secrecy may be ordered, when necessary to verify the occurrence of any illicit activity, at any stage of investigations or legal proceedings, especially in the case of the following crimes:

I. terrorism;

II. illicit trafficking in narcotic substances or similar drugs;

III. smuggling or trafficking in weapons, munitions, or materials used for their manufacturing;

IV. extortion through kidnapping;

V. acts against the Brazilian financial system,

VI. acts against Public Administration:

VII. acts against the fiscal and social security order;

VIII. money laundering or concealment of assets, rights, and valuables;

IX. acts committed by a criminal organization.

Article 2. The duty of confidentiality also applies to the Central Bank of Brazil in regard to the transactions performed and the information received in the fulfillment of its duties.

Paragraph 1. Access to confidential matters, including with regard to deposit accounts and investments kept in financial institutions cannot be denied to the Central Bank of Brazil when:

I. the Central Bank is fulfilling its surveillance duties, including the verification at any time of illegal practices by comptrollers, managers, members of the boards, agents, and proxies of financial institutions;

II. the Central Bank is carrying out investigations on a financial institution subject to a special regime.

Paragraph 2. The committees responsible for the investigations mentioned in item II of Paragraph 1 shall be entitled to review all documents concerning assets, rights, and obligations of financial institutions, their comptrollers, managers, members of the boards, agents and proxies, including information on current accounts and transactions with other financial institutions.

Paragraph 3. The provisions of this Article shall apply to the Securities and Exchange Commission (CVM), in regard to surveillance of transactions and services performed in securities markets, including financial institutions that are open companies.

Paragraph 4. The Central Bank of Brazil and the Securities and Exchange Commission, within their respective responsibilities, may sign cooperative agreements:

I. with other public institutions that regulate financial institutions in order to carry out combined surveillance, respecting their respective responsibilities;

II. with central banks or regulatory entities from other countries, in order to:

a) monitor agencies and branches of foreign financial institutions operating in Brazil and agencies and branches of Brazilian financial institutions located abroad;

b) mutually cooperate and exchange information for the investigation of activities or transactions that involve investment, negotiation, concealment, or transfer of financial assets and securities related to the practice of illicit activities.

Paragraph 5. The duty of confidentiality referred to herein also applies to the surveillance entities mentioned in Paragraph 4 and their agents.

Paragraph 6. The Central Bank of Brazil, the Securities and Exchange Commission, and other surveillance entities, within their respective jurisdiction and for the purposes defined in Article 14 of Law No. 9613, of March 3, 1998, shall provide the Council for Financial Activities Control (COAF) with identification information and cash transfer reports concerning the transactions referred to in item I of Article 11 of that same Law.

Article 3. The Central Bank of Brazil, the Securities and Exchange Commission and financial institutions shall provide the information required by the Judiciary Power, preserving their confidential nature by restricting access to the parties involved and the use of such information for purposes other than those pertaining to the investigation shall not be allowed.

Paragraph 1. Providing information and confidential documents requested by an administrative investigation committee established to verify the responsibility of a public servant for a violation made in the fulfillment of their duties or which is related to the duties of the position they hold shall require prior judicial authorization.

Paragraph 2. In the cases mentioned in Paragraph 1, the requests for lift of secrecy does not require initiating judicial proceedings.

Paragraph 3. In addition to the cases defined in this Article, the Central Bank of Brazil and the Securities and Exchange Commission shall provide the Office of the Attorney General with the necessary information and documents for the Government's defense in proceedings in which the Government is a party.

Article 4. Within their respective jurisdiction, the Central Bank of Brazil, the Securities and Exchange Commission, and financial institutions shall provide the Legislative Power with confidential information and documents undoubtedly necessary for the fulfillment of their respective constitutional and legal duties.

Paragraph 1. The parliamentary inquiry commissions, in the fulfillment of their constitutional and legal duties of broad investigation, shall obtain the necessary confidential information and documents directly from financial institutions or through the Central Bank of Brazil or the Securities and Exchange Commission.

Paragraph 2. The information requests referred to in this Article shall be subject to prior approval by the plenary session of the House of Representatives, the Senate, or their respective parliamentary inquiry commissions.

Article 5. The Executive Power shall regulate the criteria (including periodicity and limits to amounts to be reported) according to which financial institutions shall inform the federal tax administration on financial transactions performed by their customers.

Paragraph 1. For the purpose of this Article, the following are considered financial transactions:

- I. cash and long-term deposits, including those made in savings accounts;
- II. payments made in current currency or in checks;
- III. issuance of credit orders or similar documents;
- IV. withdrawals in cash or long-term deposit accounts, including savings accounts;
- V. loan agreements;
- VI. abatement of promissory notes, debtor's obligations or any other credit instrument;
- VII. purchases and sales of fixed or variable-income securities;
- VIII. investments made in investment funds;
- IX. purchases of foreign currency;
- X. exchanges of foreign currency for Brazilian currency;
- XI. money transfers made to a recipient established abroad;
- XII. transactions of gold as a financial asset;
- XIII. transactions of credit cards;
- XIV. leasing transactions; and
- XV. any other transaction of similar nature that might be authorized by the Central Bank of Brazil, the Securities and Exchange Commission, or another competent agency.

Paragraph 2. The information provided for in this Article shall be restricted to information related to the identification of the parties involved in the transaction and the total amounts transacted each month. Entering any element that enables identification of their origin or the nature of consequent expenses is prohibited.

Paragraph 3. The information referred to in this Article does not include financial transactions carried out by direct or indirect administrations at the Federal, State, Municipal, or Federal District levels.

Paragraph 4. After receiving the information referred to in this Article, if the competent authority detects indications of lapses, mistakes, omissions or tax evasion, they may request other necessary information or documents and submit them to surveillance or auditing to adequately investigate the facts.

Paragraph 5. The information referred to in this Article shall be kept under financial secrecy pursuant to current legislation.

Article 6. The authorities and the tax agents of the Federal, State, Municipal and Federal District administrations shall only review documents, books and records of financial institutions, including those relating to deposit accounts and financial investments, when administrative proceedings or tax proceedings have been initiated and the review is considered absolute necessary by the competent administrative authority.

Sole Paragraph. Results of the reviewed information and documents referred to in this Article shall be kept confidential pursuant to current fiscal legislation.

Article 7. Without prejudice to the provisions in paragraph 3 of Article 2, the Securities and Exchange Commission, after an administrative investigation has been initiated, may request the competent judicial authority to lift secrecy of financial institutions concerning information and documents on assets, rights, and obligations of individuals or legal entities subject to CVM's regulating jurisdiction.

Sole Paragraph. The Central Bank of Brazil and the Securities and Exchange Commission shall keep permanent exchange of information on the results of inspections they carry out, the proceedings they initiate, or the penalties they apply, whenever this information is necessary for the fulfillment of their duties.

Article 8. Compliance with the requirements and formalities mentioned in Articles 4, 6, and 7 shall be expressly declared by the competent authorities in the requests addressed to the Central Bank, the Securities and Exchange Commission, or financial institutions.

Article 9. When the Central Bank of Brazil and the Securities and Exchange Commission, in the fulfillment of their duties, verify the occurrence or indications of a crime defined by the law as a crime for a public legal action, they shall report them to the Department of Justice and attach to such report the necessary documents for verifying and confirming the facts.

Paragraph 1. The report referred to in this Article shall be made by the governors of the Central Bank of Brazil and the Securities and Exchange Commission (with the possibility of

delegation of powers) within no more than fifteen days from the date the proceedings are received, with acknowledgment of the respective legal services.

Paragraph 2. Regardless of the head provision of this Article, the Central Bank of Brazil and the Securities and Exchange Commission shall report to the Prosecution Service the administrative irregularities and torts known or indications of their occurrence, with all relevant documents attached.

Article 10. Breach of secrecy, except for the lift authorized herein, constitutes a crime and those responsible for it shall be subject to imprisonment from one to four years and a fine, in addition to the applicable penalties provided for in the Penal Code, without prejudice to other applicable sanctions.

Sole Paragraph. The same penalties shall apply to those who omit, unjustifiably delay, or falsely provide the information requested pursuant to this Supplementary Law.

Article 11. The public servant that uses or enables the use of any information obtained as a result of the lift of secrecy referred to in this Supplementary Law shall be liable personally and directly for the damages that result from that breach, without prejudice to the public entity's objective responsibility, whenever it is proven that the public servant acted according to official guidance.

Article 12. This Supplementary Law shall come into force on the date of its publication.

Article 13. This Supplementary Law revokes Article 38 of Law No. 4595, of December 31, 1964.

Brasilia, January 10, 2001, the 180th Anniversary of the Independence and the 113th Anniversary of the Republic.

FERNANDO HENRIQUE CARDOSO

José Gregori

Pedro Malan

Martus Tavares

This text does not replace the one published in the Official Gazette of January 11, 2001.