MEMORANDUM TO CLIENTS

April 13, 2017

Brazilian Securities Commission amends rules applicable to non-resident issuers and Brazilian depositary receipts under the BDR Program

The Brazilian Securities Commission ("**CVM**") issued, on May 5, 2017, CVM Rule No. 585 ("**CVM Rule 585**"), amending the rules stipulated in CVM Rule No. 480/2009, as amended ("**CVM Rule 480**"), which regulates Brazilian Depositary Receipts ("**BDRs**") and non-resident issuers.

According to public hearings, the amendments seek to improve access by non-resident issuers to the Brazilian capital markets, increasing their participation in such markets and the offering of BDRs.

Besides amending CVM Rule 480, CVM Rule 585 amends CVM Rule No. 476/2009, as amended ("**CVM Rule 476**"), which regulates public offerings with limited distribution efforts, CVM Rule No. 332/2000, as amended ("**CVM Rule 332**"), which regulates the issuance and trading of BDRs and CVM Rule No. 494/ 2011 ("**CVM Rule 494**"), which regulates the constitution and operation of investment clubs.

The main highlights of CVM Rule 585 are, as follows:

- *Inclusion of Sponsored BDRs Level I and Level II in the list of securities subject to Public Offerings with Limited Distribution Efforts.* CVM Rule 585 amends CVM Rule 476 to permit the distribution of Sponsored BDRs Level I and Level II through public offerings with limited distribution efforts, maximizing these issuers' access to the Brazilian capital markets through a public offering, which is exempt from registration requirements and limited to a certain number of investors. Due to the peculiarities of Sponsored BDRs Level I, CVM Rule 585 included two exceptions to CVM Rule 476, as follows: (i) inclusion of §3 to article 14, permitting Sponsored BDRs Level I to be negotiated in special listing segments of organized over-the-counter markets and stock markets without the issuer's registration; and (ii) the inclusion of item II to article 17 §2, exempting the issuer from disclosure requirements, which are applicable to non-registered issuers.

- *Foreign issuers:* Annex 32 of CVM Rule 480 requires a foreign issuer to prove its foreign status, which must be verified by the international placement agent in public offerings with limited distribution efforts since such offerings are not registered with the CVM. A foreign issuer will be granted an automatic exemption from this requirement if the public offering is subsequent to a BDR distribution and if it is proven that the assets of the foreign issuer located in Brazil do not exceed 65% (sixty five per cent.) of its total assets as reported in a single, separate or consolidated financial statement.

- *Inclusion of BDRs in the portfolio of assets of investment funds and clubs.* In order to maximize institutional investors' exposure to securities issued by foreign companies, CVM Rule 494, currently in effect, includes BDRs in the list of securities that can be in the portfolio of an investment club, provided that they do not exceed 33% (thirty three per cent.) of the club's net equity.

- *Relevant amendments to CVM Rule 332 introduced by CVM Rule 585:*

  a) Disclosure of information to the markets, under a sponsored and non-sponsored BDR Program Level I, may be either in the language of the issuer's country of origin or in Portuguese. This provision seeks to clarify that disclosure of such information in a specific language or its translation into Portuguese is not obligatory. This amendment takes into consideration that the acquisition of BDR Level I securities is restricted to qualified investors and employees of the sponsoring company, who possess a high level of sophistication or distinctive knowledge about the sponsoring company.

  b) Disclosure of information of non-sponsored BDR Level I Programs by the depositary institution must occur in the opening of the trading session on the day subsequent to the day it becomes available in the issuer's country of origin.

  c) All BDR Level Programs may be transferred to another depositary institution without a new registration with the CVM, provided that: (i) BDR holders are notified of the transfer or cancelation within at least 60 (sixty) days; and (ii) the transferred BDR Program maintains its features, except for a change of custodian.

d) The procedure for cancelling BDR Programs was clarified by CVM Rule 585, which stipulates more detailed rules, including specific deadlines for cancelation, such that BDR Level II and Level III Programs no longer require CVM's approval. Pursuant to CVM Rule 585, the administrator of the organized over-the-counter market is responsible for establishing the rules for cancelling BDR Programs.

e) Pursuant to article 10 of CVM Rule 585, voting rights of shares underlying the BDR program must be exercised by the depository institution, pursuant to instructions by BDR holders established on a BDR program agreement or, in the absence of an agreement, in the best interest of BDR holders.

Attorneys of the Capital Markets Practice

SÃO PAULO – PAULISTA
Al. Joaquim Eugênio de Lima 447
01403 001 São Paulo SP Brasil
T 55 11 3147 7600

SÃO PAULO – FARIA LIMA
Rua Campo Verde 61 3º andar
01456 000 São Paulo SP Brasil
T 55 11 3035 4050

RIO DE JANEIRO
Praia do Flamengo 200 11º andar
22210 901 Rio de Janeiro RJ Brasil
T 55 21 3231 8200

BRASÍLIA
SHS Q6 Bloco C Sala 1901
70322 915 Brasília DF Brasil
T 55 61 3218 6000

NEW YORK
712 Fifth Avenue, 26th floor
New York NY 10019 U.S.A.
T 1 646 695 1100

LONDON
5th floor, 32 Cornhill
London UK EC3V 3SG
T 44 (0)20 7280 0160

www.mattosfilho.com.br