BRAZILIAN CORPORATION AND SECURITIES COMMISSION LAWS REFORM

Summary of the Bill Passed by the House of Representatives on March 28, 2001

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PREFERRED SHARES

- Non voting shares - capped at 50% of the capital stock for new companies and IPOs of non-listed companies.

- Companies already listed may keep the 2/3 non voting share ratio, including in future share issues.

- Possibility of overriding shareholders’ preemptive rights in future capital increases to adopt the new 50/50 common/preferred share ratio.
PREFERRED SHARES

• Minimum preferences for trading on the market:

  (A) priority in receipt of dividends corresponding to at least 3% of the book value per share (after this priority condition is met, equal conditions with common shares); or

  • (B) dividends 10% higher than those paid for common shares; or

  (C) tag-along right at 80% of the price paid to the controlling shareholder(s) in case of transfer of control.
PREFERRED SHARES

- A one-year term to adapt the company’s bylaws. Minimum preferences immediately applicable to issues of new preferred shares.

- Voting rights are vested if the company fails to distribute the 25% mandatory dividend.

- Golden Share - privatized companies - Government may keep veto rights over certain matters at the Shareholders’ Meetings.
REDEMNPTION ("Resgate")

- Approval from at least half of the affected class of shares, unless there is a provision to the contrary in the Company’s bylaws.
DEBENTURES

• Amortization/redemption in cash, assets or rights.
• Indenture registered with the Board of Trade instead of the Real Estate Registry.
ARBITRATION

- Bylaws may provide for resolution of disputes by arbitration - Arbitrator to be specified.
- Shareholders’ agreement- arbitration award will produce all the effects of a vote that is not cast.
SHAREHOLDERS’ AGREEMENT

• Aggrieved shareholder - right to vote with shares held by the absent, silent or abstent shareholder or Board member.

• Impossibility of termination if the agreement provides for a defined term or condition.

• Proxy - acceptability of a term exceeding one year.

• Appointment by the shareholders of a person to act as representative with the Company.
SHAREHOLDERS’ MEETINGS
CALL NOTICE

• 1st call - listed companies - 15 days in advance.

• 2nd call - listed companies - 8 days in advance.

• CVM - may request a 30-day call in advance for complex transactions. Possibility of a 15-day stay in the time frame and of notification of any breaches in legal/regulatory provisions.

• Remittance of transaction documents to Stock Exchanges on the same day of the publication of the call notice.
RIGHT TO WITHDRAW
(“Direito de Recesso”)

• Consolidation, merger and participation in a group of companies - the right to withdraw does not apply if there is liquidity and dispersal (“dispersão”) of the type or class of shares in question on the market.

• Liquidity - participation in a stock index, in Brazil or abroad.

• Dispersal - controlling shareholder(s) holds less than half of the type or class of shares in question.
RIGHT TO WITHDRAW
("Direito de Recesso")

- Partial Spin-off - The right to withdraw applies in case of:
  (a) change in the corporate purpose, unless the Company’s assets/liabilities are contributed to a company that is engaged in substantially the same activities;
  (b) reduction in the mandatory dividend; or
  (c) participation in a group of companies.
• 1/3 of the Board members may be foreign individuals resident outside of the country.

• **Non-controlling shareholders** - Election of (I) two Board members by separate cast by: (a) at least 15% of the voting shares; and (b) preferred non voting or restricted voting shares, representing 10% of the total capital stock; or (II) (c) election of one Board member by voting and non voting non-controlling shareholders representing at least 10% of the total capital stock.

• **Stand-by period** - Up to the 2005 Annual Shareholders’ Meeting, Board members elected in accordance with letters (b) and (c) above must be chosen out of a list with three names prepared by the controlling shareholder(s).
BOARD OF DIRECTORS

- Bylaws - possibility of providing for election of one Board member by employees.
- CADE (Brazilian Antitrust Agency) may veto Board members that may represent a potential risk to “free competition” (the same individual participating in the Board of Directors of two competitors, for example).
- Resolution by majority vote. The Company’s bylaws may set a supermajority vote for approval of certain matters.
INDEPENDENT AUDITORS

- Veto right ensured to the Board members elected by the non-controlling shareholders.

- Working papers should be kept available for investigation for at least five years.
FISCAL BOARD ("Conselho Fiscal")

Rules applicable to listed companies:

• One member elected by the majority of the (a) preferred non-voting and restricted voting shareholders together with (b) voting shareholders, excluding the controlling shareholder(s).

• One member elected by the controlling shareholder(s).

• Third member elected by the majority of the voting and non-voting shareholders.
INSIDE INFORMATION

• Specific provision against the use of privileged information by any insider.

• Managers (executive officers, board of directors and fiscal board members) and shareholders that elected such managers - Duty to promptly inform changes in their stock ownership positions to CVM and Stock Exchanges.
PREEMPTIVE RIGHTS

- Waiver of or reduction in the 30-day period for exercise of preemptive rights for subscription of capital increases, in the following events: (a) placement/disposal of shares in Brazil or abroad, on Stock Exchanges or through public distribution, provided that actual dispersal is ensured (as defined by CVM); or (b) exchange offer in takeover bids.
TAG-ALONG RIGHT

- Proposal to restore the mandatory tender offer to minority voting shareholders in case of change of control - Tender offer price should be 80% of the price per share paid to the controlling shareholder(s).
- Minority non-voting shareholders may have the same right if established in the bylaws.
- Exclusion of companies under privatization programs, provided the bidding notice is published before the new law comes into force.
DELISTING

• Tender offer at fair value for cancellation of registration with CVM. Fair value to be computed based on one or more of: (a) book value; (b) “market value of the net worth”; (c) discounted cash flow; (d) market comparables; (e) stock price on the market; or (f) any other criteria accepted by CVM.

• Minority shareholders representing at least 10% of the free float will have the right to request for the call of a special shareholders’ meeting to approve the preparation of another appraisal based on the same or a different criteria originally adopted to define the fair value.
DELISTING

- Mandatory tender offer at **fair value** if the controlling shareholder(s) reaches a percentage that restrains liquidity of the free float (CVM criteria).

- **Squeeze-out** - Controlling shareholder(s) achieves more than 95% of the shares through the Delisting Tender Offer - Possibility of redemption of the remaining shares.
PROPOSED REFORM OF LAW 6385/76

- CVM - independent regulatory agency.
- Board - One Chairman and four Commissioners appointed by the President of the Republic.
- A five-year term of office, reelection being prohibited.
- Renewal of one-fifth of the CVM Board every year.
- Approval of candidates by the Federal Senate.
- “Stand out Period” - 1/10 of the term of office.
ADMINISTRATIVE PROCEEDINGS

- End of the possibility of appealing to CRSFN (National Financial System Appeal Council) in case of unanimous decision by CVM Board.

- Disclosure of administrative proceedings, when required in view of the public interest.
CRIMINAL OFFENSES

- Manipulation - imprisonment from one to eight years and fine.
- Insider Trading - imprisonment from one to five years and fine.
- Irregular exercise of position, profession, activity or function - imprisonment from six months to two years and fine.
ACCOUNTING STANDARDS COMMITTEE - CPC


- Nine members at the most: (a) CVM; (b) federal accounting control body; (c) national entities representing accountants; (d) universities and research institutes.
EFFECTIVENESS

- Existing companies - 120 days after publication.
- New companies - immediate effectiveness.
- Mandatory amendment to the bylaws of existing companies - one year as from the date the new law comes into force.
- Such amendment entails no right to withdraw.
NEXT STEPS IN CONGRESS

• The Draft Law shall be reviewed by the Senate.

  – Senators can propose amendments thereto.
    • If amendments pass, the Draft Law returns to the House of Representatives, for review.
    • If no amendments are proposed, the Draft shall be approved or rejected by the Plenary Sitting.

• Amendments can be proposed:
  • in the Senate Commissions
  • in the Plenary Sitting.
IN THE SENATE

• The Board of the Senate or its President will decide one of the following procedures to be followed:
  – (A) 2/3 of the Senators or political party leaders representing that quorum propose urgency.
    • If approved, the Draft Law is submitted to vote within two Senate sessions (two weeks); or
  – (B) The Board submits the Draft Law to review by the following House Commissions:
    • Economic Affairs Commission (15 days to review).
    • Constitution, Justice and Citizenship Commission (20 days to review).
Amendments in the Commissions, if any, shall be reviewed within an extra 15 days.

Each Commissions Reporter can request extra time to review the amendments.

The report shall be the basis for discussing and voting the Draft Law.

Minority or dissidents can obstruct voting.

THUS:

– The actual timing of the procedure will be defined by unforeseeable political issues.

– No forecast of the approval timing can be made.
FOLLOW-UP QUESTIONS

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