



## Changes to the Rules about Filing of Corporate Documents

**1.** On March 3, 2017, Normative Instructions 34, 35, 36, 37, and 38 were published, by means of which the Department of Enterprise Registration and Integration (DREI) addressed the following matters, respectively: (i) filing of documents of enterprises, companies, or cooperatives in which foreign investors domiciled in Brazil, Brazilian or foreign individuals domiciled abroad, and legal entities with head offices abroad hold equity interest; (ii) filing of transformation, merger, consolidation, and split-up documents; (iii) classification, reclassification and disqualification of micro-enterprises and small enterprises; (iv) amendment to the rules about filing of groups of companies' and consortium's documents; and (v) new manuals for registration of individual entrepreneurs, limited liability companies, limited liability individual enterprises ("EIRELI"), cooperatives, and corporations.

**2.** Among the most relevant changes brought by the Normative Instructions listed above, we should highlight:

a) individuals residing abroad, and legal entities headquartered abroad that hold equity interest in enterprises, companies, or cooperatives must file, in a separate registration procedure, with the Commercial Registry, a specific power of attorney granted to a grantee residing in Brazil, with an **indefinite term** and with powers to receive summons in proceedings against the grantor, pursuant to the law governing the respective type of company (IN 34/2017);

b) legal entity headquartered abroad must present proof of its legal existence and statement that the laws of its country of origin have been complied with, and these documents must be notarized, legalized at the consulate (or, if the country of origin is a signatory to the Hague Apostille Convention, these documents must be apostilled in that country) and, once in Brazil, they must be translated by a sworn translator and registered with the Public Registry of Deeds and Documents<sup>[1]</sup> (IN 34/2017);

c) the submission of information, by the Commercial Registry to the Federal Police Department, upon the filing of documents of enterprises, companies, or cooperatives in which foreigner holds equity interest (IN 34/2017);

d) the filing, with the Commercial Registry, of corporate documents of consortium members approving the consortium agreement, as per the formalities applicable to the legal type of the consortium member (IN 37/2017);

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*[1] The power of attorney issued in France and notarized by a French notary waives the legalization by the consulate, but the requirement for translation by sworn translator and registration with the Public Registry of Deeds and Documents in Brazil remains.*

e) the possibility of limited companies regulated, on supplementary basis, by Law 6404/76 ("Corporations Law") adopting any specific characteristic of corporations, if such characteristic is compatible with the nature of the limited company, such as: **treasury quotas; preferred quotas** and Board of Directors (Attachment III of IN 38/2017); and

f) the incorporation of an EIRELI by an individual or a **national or foreign legal entity** (Attachment V of IN 38/2017).

**3.** Finally, the Normative Instructions will come into force before all Brazilian Commercial Registries within sixty (60) days from the date of publication, i.e., on May 2, 2017.

<sup>1</sup> *The power of attorney issued in France and notarized by a French notary waives the legalization by the consulate, but the requirement for translation by sworn translator and registration with the Public Registry of Deeds and Documents in Brazil remains*

This warning contains information and general comments on legal matters that may interest our clients and friends. It does not represent the legal opinion of our firm on the subjects addressed herein. In specific cases, readers should rely on proper legal assistance before adopting any concrete action relating to the matters addressed herein.

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