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Brazil's CVM puts the ball in play with Guidance Note on Football Corporations

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In August 2023, the Brazilian securities commission (CVM – Comissão de Valores Mobiliários) published CVM Guidance Note 41 (Parecer de Orientação), outlining its understanding of how Law 14.193/2001, which provides for Football Corporations, known as SAFs (Sociedades Anônimas de Futebol), interacts with the Brazilian Corporations Law (Law 6.404/1976) and CVM regulations.

Aiming to guide market participants on the use of securities available to SAFs to raise funds on the capital market, Guidance Note 41 addresses important issues such as corporate governance of SAFs, shares issued by SAFs and the nature of those shares, the types of public offerings available to SAFs, and compliance with capital market information and reporting requirements.

In providing guidelines on what SAFs should expect when entering the capital market, the CVM makes it clear that regulation plays a crucial role in protecting the market, especially given the "emotional" bias that investors and the general public may have towards a potential investment in football corporations, given their nature.

The CVM's initiative in issuing Guidance Note 41 is both highly commendable and very welcome, particularly after the initial cycle of SAF incorporations in the Brazilian market, involving traditional clubs such as Botafogo, Cruzeiro, Vasco, Bahia, Coritiba, and Atlético Mineiro. The creation of these SAFs represents another milestone indicating that the football industry is modernizing and becoming more sophisticated, poised to join the growing Brazilian capital market.

Although it does not introduce innovative solutions, Guidance Note 41 shows that the regulator is open to SAFs and their investors joining the capital market. It conveys the regulator's view on the need for transparency, clarity, responsibility, and rigor in protecting investors in a heavily emotional market that has many elements foreign to the coolness associated with the traditional corporate environment.

Nobody passionately "roots" for a mining company, a retail chain, or a real estate developer (unless, perhaps, they are heavily invested in the company's securities). Although the idea of "purely" rational investor has been debunked, ordinary biases in market analysis pale in comparison to the fervor of football enthusiasts for their clubs.

Nevertheless, sports, and especially football, is big business, and increasingly recognized as such in the market, with growing investment by major international players (economic players, that is) in the sector, in terms both of value and number.

With Guidance Note 41 the CVM simultaneously addresses various market demands, and takes the firm stance that, like any business, SAFs' access to the Brazilian capital market is subject to the rules under the legislation and regulations and the CVM's vigilant supervision of the CVM. It also signals to the various players in this expanding market that the game is just beginning.

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