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IOF on short-term external loan transactions revised again

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The Brazilian government published a decree on 4 June 2014 (Decree 8,263) that revises the definition of "short-term" for purposes of inbound loans and offshore bond issues (overseas debt) from 360 days to 180 days. The decree is effective as from the date of publication.

As a result of the new decree, Brazilian companies that enter into direct loans (whether or not intercompany) or issue bonds in the market, with a maturity period of less than 180 days, will be subject to the financial transactions tax (IOF) at a rate of 6%. The IOF is assessed at the time the foreign currency is converted into Brazilian Reais. The new rule also applies to "simultaneous foreign exchange transactions" (in which there is no effective cash exchange).

Loans entered into when previous legislation was in force are not affected by the decree, so that the treatment of any loan has to be determined based on the rule prevailing at the time the loan was obtained. The following chart sets out the various changes to the minimum period to maturity since March 2011:

Decree	Minimum average period (days)	Period	IOF Rate
7,456/11	360	29 Mar 2011 – 6 Apr 2011	6%
7,457/11	720	7 Apr 2011 – 29 Feb 2012	6%
7,683/12	1,080	1 Mar 2012 – 11 Mar 2012	6%
7,698/12	1,800	12 Mar 2012 – 13 Jun 2012	6%
7,751/12	720	14 June 2012 – 4 Dec 2012	6%
7,853/12	360	5 Dec 2012 – 03 June 2014	6%
8,263/14	180	As from 4 June 2014	6%

This is the seventh change to the definition of "short-term" since March 2011 and represents the shortest term since March 2011. The IOF is imposed on foreign exchange transactions and has been used by the Brazilian government as a tool to stimulate or inhibit the inflow/outflow of foreign currency into/out of Brazil and, consequently, to manage the fluctuation of the Brazilian Reais against foreign currencies.