

# OFFICIAL FEDERAL GAZETTE

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## **Executive Power Acts**

### **PROVISIONAL MEASURE Nr. 442 OF OCTOBER 6<sup>TH</sup>, 2008**

Disposes on rediscount operations by Banco Central do Brasil and authorizes the issuance of Letras de Arrendamento Mercantil (Commercial Leasing Bills) – LAMs and provides other actions.

**The President of the Republic**, in the use of the attributions granted to him by art. 62 of the Constitution adopts the following Provisional Measure, which has the effect of a law:

Art. 1 – The National Monetary Council, aiming at ensuring proper liquidity levels in the financial system may:

I – establish special criteria and conditions to assess and accept assets received by the Banco Central do Brasil in rediscount operations in local currency or as collateral for loan operations in foreign currency, and

II - to dismiss, under special situations and for a limited period of time, observing the disposed in § 3 of art. 195 of the Constitution, in the rediscount and loan operations performed by Banco Central do Brasil, the tax regularity requirements foreseen in art. 62 of Decree-Law Nr. 147, of February 3<sup>rd</sup>, 1967; in art. 1 § 1 of Decree-Law Nr.1715, of November 22<sup>nd</sup>, 1979; in art. 27 subparagraph “b” of Law Nr. 8.036, of May 11<sup>th</sup>, 1990 and in Law Nr. 10.522, of July 19<sup>th</sup>, 2002.

§ 1 In the loan operations referred to in subsection I of the **caput**, Banco Central do Brasil is authorized to:

I – release the amount of the operation in the same foreign currency the assets received as collateral are nominated or referred to, and

II – accept, as a complement to the collaterals offered in the operations, actual or fiduciary collateral granted by the controlling shareholder, an associated company or a financial institution.

§ 2. In the event of default, Banco Central do Brasil may, by public offer, alienate the assets received in rediscount operations or as collateral in loan operations.

§ 3. The alienation discussed in § 2 will not be impeded by the intervention, judicial recovery, extrajudicial liquidation, bankruptcy or civil insolvency to which the financial institution or third party owner of the asset offered as collateral to the loan is, depending on the case, subject to.

§4. The positive or negative result of the alienation discussed in § 2 will be appropriated by Banco Central do Brasil and will be part of its balance sheet for the purposes of art. 2 of Provisional Measure 2.179 -36, of August 24<sup>th</sup>, 2001.

§ 5. The National Monetary Council shall rule the disposed in this article.

Art. 2. The commercial leasing companies may issue a credit bond representing the promise to pay in cash, called Commercial Leasing Bill – LAM.

§ 1. The credit bond discussed in the **caput**, a nominal, endorsable and free negotiation bond, should contain:

I – the name “Letra de Arrendamento Mercantil” (Commercial Leasing Bill);

II – the issuer’s name;

III – the order number, place and date of issuance;

IV – the nominal value;

V – the fixed or variable interest rate, admitted for the capitalization;

VI – the description of the collateral, actual or fiduciary, if there is any;

VII – the due date or, if issued for payment in installments, the due date of each installment and the corresponding amount;

VIII – the place of the payment, and

IX – the name of the person to be paid

§ 2 The LAM endorser does not answer for its payment, except when established otherwise.

§3 The LAM is not a loan or advance operation for its acquisition in the primary or secondary market, and is not considered a security for the purposes of Law Nr. 6.385 either, of December 7<sup>th</sup>, 1976.

Art. 3. The LAM will be issued as a book entry by registration in a financial asset record and settling system authorized by Banco Central do Brasil.

Sole Paragraph. The transfer of the LAM’s ownership shall be performed in the system mentioned in the **caput**, which will be responsible

Art. 4. The exchange rate legislation, to the extent that it does not violate the disposed in this Provisional Measure, is applied to the LAM.

Art. 5. Art. 8 of Law 6.099 of September 12, 1974, is now in effect with the following wording:

“Art. 8. The National Monetary Council may enact a resolution ruling the conditions according to which the financial institutions may finance their companies controlled, associated or interdependent companies specialized in commercial leasing operations.

Sole Paragraph. The acquisition of debentures issued by commercial leasing companies in the primary or secondary market is an exchange rate obligation and, therefore, does not characterize a loan or advance operation” (NR).

Art. 6. This Provisional Measure will be in effect on the date of its publication.

Brasilia, October 6<sup>th</sup>, 2008, 187<sup>th</sup> of the Independence and 120<sup>th</sup> of the Republic.

LUIZ INÁCIO LULA DA SILVA  
Guido Mantega  
Henrique de Campos Meirelles

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**Presidency of the Republic**

**DISPATCHES OF THE PRESIDENT OF THE REPUBLIC**

MESSAGE

Nr. 758, of October 6<sup>th</sup>, 2008. Forwarding of the text of Provisional Measure Nr. 442, of October 6<sup>th</sup>, 2008, to the National Congress.

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After the National Press has had many temporary head offices, D. Pedro II inaugurated, in 1877, the first building to store all the presses and material used in the publishing house? That this building caught fire on the night of September 15<sup>th</sup>, 1911, when a vast historical material was lost?