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INTRODUCTION

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Given the impossibility of providing certainty to this scenario, the role of the Law stands out to protect trust in the relationships and operations established in the capital market - an indispensable requirement for its existence and proper functioning. This means that confidence in the market, as well as security over its operations, occurs due to the functioning of its coordination mechanisms, as well as in the performance according to the rules and means of supervision of the competent entities.

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I. INTRODUCTION

According to Coleman, "few sectors of the capitalist economy possess such extensive self-regulatory capacity as capital markets"[1]. Contemporaneity has been marked by growing complexity and uncertainty arising from technological development, which has consequently enabled the development of transnational markets, especially the capital market, where risk and return establish a directly proportional relationship (TEIXEIRA FERRAZ, 2012).

Given the impossibility of providing certainty to this scenario, the role of the Law stands out to protect trust in the relationships and operations established in the capital market - an indispensable requirement for its existence and proper functioning. This means that confidence in the market, as well as security over its operations, occurs due to the functioning of its coordination mechanisms, as well as in the performance according to the rules and means of supervision of the competent entities.[2] This highlights the relevance of trust in attracting investors to developing countries in globalized economies.[3]

In this context, market coordination refers to the State's power of supervision in relation to economic activities, since, by express imposition of article 173 of the constitutional text, direct exploitation by the State is only admitted when necessary to the imperatives of national security or to relevant collective interest. Being, therefore, assured the free private initiative, the State reserves for itself the function of exercising the control of the market.

In this sense, this study aims to offer a non-exhaustive overview of the forms of market control - regulation, self-regulation and compliance, in particular - and the relationship between their respective competent entities in the Brazilian capital market, in order to subsidize the understanding of the analysis of the objective parameters determined by - environmental law, consumer law,

[1] COLEMAN, W. D. Keeping the Shotgun Behind the Door: Governing the Securities Industry in Canada, the United Kingdom, and the United States apud MOREIRA, Vital. Auto-Regulação Profissional e Administração Pública. Coimbra: Livraria Almedina, 1997, p. 86.

[2] In fact, for Teubner and Gáscon, the relevance of law is intrinsically related to social and economic processes, as can be seen from the excerpt: [...] For me law has only a supportive role to play and the important things are social and economic learning processes within the corporation that may be supported by legal rules. TEUBNER, Gunther; GASCÓN, Ricardo Valenzuela. Constitutional sociology and corporations [s. l.], 1997. In the same sense, Aragão points out: Thus, for this thinker, it is not the Law but the market that creates its own means of communication, which are protected and applied by the State. The Law, in his opinion, does not give them the content, but only the forms. ARAGÃO, Alexandre Santos. O conceito jurídico de regulação da economia. In: JURUÁ (org.). Revista de Direito Administrativo & Constitucional. no 6ed. Curitiba: [s. n.], p. 59-74, 2001.

[3] For further understanding on the effect of legislative changes in creditor and shareholder protection on attracting investment in transition economies: (PISTOR, K. *et al*). Law and Finance in Transition Economies. Economics of Transition. [s.l.] Vol. 8, p. 324-368

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competition law, sanctioning law, labor law, among others - addressed in the second part of this work for the evaluation of the integrity programs of the companies listed in the Novo Mercado segment.

We discuss the hypothesis that the requirement of integrity programs as a requirement to enter the Novo Mercado segment[4] demonstrates the binding nature of the documents and their use as means of supervision and control exercised by B3, a self-regulatory entity, over the capital market and the referred segment. To this end, the methodology was based on the inductive method from the bibliographic study on the forms of market control, the rules of competence of CVM and B3 on the adoption and development of compliance programs.

Finally, this article presents, in addition to this introduction, 4 sections: Market Control, which in turn comprises the subsections entitled Regulation and CVM, Self-regulation and the Intersections between regulation and self-regulation: the roles of CVM and B3; Novo Mercado and compliance; Integrity programs: binding instruments?; and Conclusive Considerations.

II. MARKET CONTROL

The theme of market control refers to the economic policy applied by a State. In other words, the political and economic choice on how to exercise economic activities generates to a greater or lesser extent the need for control, that is, the elaboration of standards, the practice of supervision and the imposition of sanctions (ARAGÃO, 2001). Considering the current constitutional order and the prevailing economic policy in Brazil, the regulatory scope is essentially to allow the development of the market and, concomitantly, to promote constitutional interests, given the subsidiarity of state intervention (MARQUES NETO, 2011).

The ownership of the controller may change according to the coordination modality employed in the market sector in focus. In the following sections, regulation, self-regulation and compliance will be presented as forms of market control.

2.1. Regulation and CVM

The term "regulation" is often used as a genre, referring to market coordination. However, as a kind of market coordination, the term refers to the control exercised by the State when drafting rules, their application and supervision of the exercise of economic activities by private agents (ARAGÃO, 2001).

In the Brazilian legal system, a general theory of regulation has not been formulated.[5] This is because it is related to the functions assumed by the state - sometimes diametrically opposed: direct interference in the economic sphere and mere supervision of the activity carried out by private

[4] Art. 31 The company must prepare and disclose a code of conduct approved by the board of directors and applicable to all employees and managers that includes, at least: I- the principles and values of the company; II- the objective rules related to the need for compliance and knowledge about the legislation and regulations in force, in particular, the rules for the protection of the company's confidential information, fight against corruption, in addition to the company's policies; III- the duties in relation to civil society, such as socio-environmental responsibility, respect for human rights, and labor relations; IV- the channel that enables the receipt of internal and external complaints, regarding non-compliance with the code, policies, legislation and regulations applicable to the company; V- the identification of the body or area responsible for investigating complaints, as well as the guarantee that they will be anonymized; VI- the protection mechanisms that prevent retaliation against the person who reports an occurrence potentially violating the provisions of the code, policies, legislation and regulations applicable to the company; VII- the applicable sanctions; VIII- the provision of periodic training for employees on the need to comply with the provisions of the code; IX- and the internal bodies responsible for the application of the code. B3 S.A. - BRASIL, BOLSA, BALCÃO. Novo Mercado Regulation. Available at: http://www.b3.com.br/data/files/3A/60/99/CC/038CF610761CABF6AC094EA8/Regulamento%20do%20Novo%20Mercado%20-% 2003.10.2017%20 (Sancoes%20pecuniarias%2020).pdf Accessed on: 14. Jan. 2021.

[5] In this article, the term "regulation" relates specifically to capital market regulation.

individuals; the provision of public services and market surveillance (SALOMÃO FILHO, 2011). For this reason, it is assumed that the term regulation not only has a broad meaning, allowing for the study of its different conceptions and influences in Brazilian law, but it also represents the due process clause in economic matters (SALOMÃO FILHO, 2015).

According to Cross and Prentice, the Law restricts and regulates while allowing the market to function.

The law represents the rules created and enforced by a nation's governmental authority. The law implies the use of this government authority and power to impose and enforce certain rules. By its nature, this is a constraint on the purely voluntary transactions of a laissez faire market. The legal restrictions placed on the firm are inevitably controversial in a fundamentally capitalist society. (CROSS; PRENTICE, 2007, p. 1)

In order to understand the basis for this restriction of the Law to the purely voluntary market, this section will outline the general notions of the theories of regulation: the Public Interest Theory, the Neoclassical Economic Theory or School and the Institutional Theories.

According to the Public Interest Theory, the purpose of regulation is the realization of the public interest, understood as the interest of the community (MITNICK, 1980). Thus, in an interface with Administrative Law, this theory faces the difficulty of conceptualizing public interest, since, as already indicated, this task is directly related to the functions assumed by the State and the very concept of public service, which vary according to the political and economic context.

The Neoclassical Economic Theory or School, in turn, contradicts the previous theory by stating that the purpose of regulation is the need to correct market failures so that it freely obtains better results. Thus, this theory starts from the notion that the ideal market is one in which agents act rationally in favor of their interests and coordinated by a price system (MEIRELLES, 2010). When there are failures in this system or the need to direct it to objectives accepted by the legal system, regulation is necessary (ARAGÃO, 2001).

Finally, in explaining the relationship between institutions and the development of society, the Institutional Economics Theory defends the existence of a link between the members of institutions embodied in a common interest. In this sense, the institution brings together and subordinates individuals with common interests, who, once voluntarily adhering to the institution, begin to act in accordance with institutional arrangements. Also according to this theory, institutions develop in order to avoid uncertainties and reduce the risks and costs generated by the asymmetry of information between agents. For this reason, it is turned not only to Economics, but also to the study of institutions in other Social Sciences.

From this brief exposition, it is possible to conclude that the main difference between these theories comes from the approach to the relationship between public and private and between government and market. Nevertheless, in this article, regulation is understood as an economic policy option in which the State does not directly exercise economic activity, but holds the competence for its planning and supervision (DIAS, BECUE, 2012).

Thus, regulation comprises two ideas: the establishment and implementation of rules and the restoration of the balanced functioning of a system (MOREIRA, 2008). The justification for this interference is due to the assumption of the existence of market forces, which hinder free market activity and cause risks to the community (DIAS, BECUE, 2012). Calixto Salomão Filho (2011) summarizes regulation as the autonomous institutional guarantee of market correction and balance, with the purpose of conferring material equality to the players.

In this context, to exercise the regulatory role over the capital market, the Brazilian Securities and Exchange Commission (CVM) was created. Similar to the regulatory agencies typical of the common law tradition, the CVM - created by Law No. 6.385/76 - consists of an autarchy linked to the Ministry of Finance, with its own assets and legal personality, endowed with independent administrative authority, absence of hierarchical subordination, fixed mandate, stability of its directors and financial and budgetary autonomy, aimed at regulating the Brazilian capital market. Therefore, within its attributions is the regulation focused on the supervision of publicly-held companies[6] and the achievement of the public interest in the activity of stock exchanges[7] (EIZIRIK *et al*, 2019).

According to the current law, CVM is responsible for (i) the issuance and distribution of securities in the market; (ii) trading and intermediation in the securities market; (iii) trading and intermediation in the derivatives market; (iv) the organization, operation and operations of stock exchanges; (v) the organization, functioning and operations of commodities and futures exchanges; (vi) portfolio management and custody of securities; (vii) auditing of publicly-held companies; and (viii) securities consultant and analyst services. In addition, CVM establishes that its purpose is to ensure the efficient functioning, integrity and development of the capital market, promoting a balance between the initiative of agents and the effective protection of investors.[8][9]

In view of the complexity of the capital market and its constant variations in the economic scenario, in addition to the little flexibility, the regulation exercised by the autarchy is added to the self-regulation exercised by the stock exchanges[10][11] and the coordination of the market itself through competition - this will not be addressed in this article.

Currently in Brazil, the discussion about the CVM's powers and their possible expansion is being debated by Bill nº 2529/2023. The bill is seeking "to give the CVM greater institutional strength to

[6] Art. 8 - It is incumbent upon the Securities Commission to: I - regulate, in compliance with the policy defined by the National Monetary Council, the matters expressly provided for in this Law and in the Corporations Law. BRAZIL. Law No. 6385 of December 7, 1976. Provides for the securities market and creates the Securities and Exchange Commission. Available at: http://www.planalto.gov.br/ccivil_03/leis/L6385compilada.htm. Accessed on: 04 Jan. 2021.

[7] In this article, the use of the expression "stock exchange" considers the physical space and the trading system - normative attributes that make up the economic concept of the term and characterize it as a species of the genus "securities market".

[8] Available at: https://www.gov.br/cvm/pt-br/acesso-a-informacao-cvm/institucional/missao-valores-e-objetivos-estrategicos. Accessed on 04. Jan. 2021.

[9] In order to fulfill its institutional function, CVM is also responsible for supervisory and sanctioning activities. In order to investigate the exercise of these powers, the Center for Studies in Financial and Capital Markets of FGV Direito -SP prepared the report "Beyond the numbers of the CVM: enforcement in the Brazilian capital market" in which it analyzed the quarterly reports released by the autarchy on the subject. Avaiable at: https://5ad2dfdf-fdcf-4d2e- bad8-f0771e6e8846.filesusr.com/ugd/b5264b_32bdb3eef0954eef9cdf7f2a603de720.pdf?index=true. Accessed on: July 02, 2021.

[10] In practice, the development of information technologies has enabled the globalization of financial markets, so that their coordination now goes beyond national borders to also take into account international regulatory aspects: [...] it also denotes a world where regulation is increasingly a hybrid of different systems of control, where statist regulation coevolves with civil regulation, national regulation expands with international and global regulation, private regulation coevolves and expands with public regulation, business regulation coevolves with social regulation, voluntary regulations expand with coercive ones and the market itself is used or mobilised as a regulatory mechanism. LEVI-FAUR, David. Regulatory Capitalism. In: Regulatory Theory: Foundations and applications. Peter Drahos (org.), p. 293, 2017.

[11] The complementarity between market coordination exercised by the public and private entities is not an uncontroversial issue. Lebaron and Rühmkorf point out that self-regulation can weaken public regulation, as shown in the following excerpt: *While it has become commonplace to argue that public and private labour governance mechanisms can be complimentary, and that 'public and private regulatory efforts need to work with and build off on one another' (Locke, 2013, p. 177), our study highlights the possibility that the integration of private governance into public legislation can undermine and weaken effectiveness. There is a need for further study of this phe- nomenon, not only in home state legislation, but in relation to public governance of labour standards more generally*. LEBARON, Genevieve; RÜHMKORF, Andreas. Steering CSR Through Home State Regulation: A Comparison of the Impact of the UK Bribery Act and Modern Slavery Act on Global Supply Chain Governance. Global Policy, [s. l.], v. 8, n. 3, 2017, p. 26.

deal more efficiently with its responsibilities relating to the matter dealt with here and to the capital market in general[12]" and expand its power to carry out investigations, inspections, search and seizure requests to the Judiciary.[13].

2.2. Self-Regulation

Self-regulation, also understood as a type of market coordination, differs essentially from regulation because it is exercised by the market agents themselves. In view of this distinct ownership,[14] it is necessary to address the reasons, advantages and risks of this form of coordination.

Self-regulation encompasses three characteristics (BECUE, DIAS, 2012): (i) the imposition of rules developed by the regulated themselves; (ii) the collectivity of the phenomenon, since it is the result of an organization established for the purpose of self-regulating the group; and (iii) the private character, since it does not derive directly from the State. According to Luciana Pires Dias (2005), the term refers to "[...] the set of self-binding rules that a given group imposes on itself, either spontaneously or by determination of the State". For Calixto Salomão Filho (2011), self-regulation aims to create an environment similar to perfect competition, in order to correct the market.

According to Ferraz (2012), self-regulation and regulation are not confused. This is because:

In reality, regulation and self-regulation are two forms (species) of economic coordination, and this term should be broadly understood as the act of methodically organizing, structuring and ordering the economy, with the aim of keeping it synchronous and harmonious. Thus, self-regulation cannot be a species of regulation, since it is a form of "non-state" coordination, carried out by the economic agents themselves through private professional entities. In other words, self-regulation activity is outside the scope of the State and cannot be a type of regulation (according to the concepts presented in this paper) (TEIXEIRA FERRAZ, 2012, p. 69).

Considering the concept of self-regulation, the role of expertise in the market coordination process is notorious, since the insertion of the regulator in the regulated's praxis tends to lead to higher quality and precision standards, which results in greater legitimacy and adherence and, consequently, greater effectiveness (EIRICK et al, 2019; SUTINEN, KUPERAN, 1999). This characteristic gives greater credibility to self-regulation compared to regulation, since the size, inefficiency and structural complexity of the State can favor political, economic and bureaucratic elites (STIGLER, 1975; MARQUES NETO, 2011).

Moreover, self-regulation processes also tend to be faster, which is an essential element for capital markets. At the same time, the reduction of costs arises from its internalization by the self-regulator,

[12] See: https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2284015&filename=PL%202925/2023. Accessed on: Oct. 06, 2023.

[13] The Commission will also be delegated the possibility of modifying minimum participation percentages in order to to legitimize the filing of lawsuits and the approval of transactions aimed at closing liability lawsuits, as well as allowing the use of as well as allowing the use of parameters other than share capital as a reference, taking into account the dynamics of the taking into account the dynamics of the capital market. On the subject, see: arts. 27-G, 27-H, 27-I.

[14] The fact that market agents themselves securitize self-regulation leads to questions about maintaining the unity of the legal system. For Reimer (2016), since the rules that authorize and encourage self-regulation are valid in the legal system itself, there is no need to speak of an exception to the unity of the system. REIMER, Philipp. "L'État, c'est le droit!" - On the Actuality of Hans Kelsen's Theory of the State in the Face of the Metamorphosis of State Power. Cadernos do Programa de Pós-Graduação em Direito - PPGDir./UFRGS, Porto Alegre, v. 11, n. 1, p. 50-79, 2016. On the other hand, according to Marques Neto (2011), the self-regulation of market systems constitutes normative plurality and breaks the vertical structure of the norm, thus shaking Kelsen's pyramid. MARQUES NETO, Floriano de Azevedo. State Regulation and Self-regulation in the Contemporary Economy. Journal of Public Law of Economics, Belo Horizonte, year 9, n. 33, p. 79-94, 2011.

reducing state expenses, the possibility of duplication of standards and the need for supervision, in favor of legitimacy and adherence to standards (DIAS, BECUE, 2012).

In addition to the practical advantages of self-regulation compared to regulation, such a model is also justified by allowing the incorporation of collective interests and democratic guarantees to the coordinating measures of individuals, in addition to enabling the correction of market failures by the sector with the necessary expertise and the pursuit of its legitimate interests (DEFANTI, 2018).

As for its modalities, according to Ferraz (2012), self-regulation can be classified as (i) legally based or (ii) voluntarily based. The first is marked by the delegation by the State of regulatory competence, such as the Stock Exchanges. The second, in turn, is marked by the exclusive initiative of individuals who adhere to the rules imposed by the private regulatory body, such as integrity programs or codes of conduct. In Brazil, it is understood that the two modalities coexist within the scope of B3 and the Novo Mercado segment, as will be discussed in section 3.

The division between regulation and self-regulation, however, raises significant questions about the ability of self-regulatory instruments to actually bind business activity - a topic on which there is still no consensus in the doctrine. According to Ferraz (2012), the binding force is only conferred to the self-regulation of legal basis, because it is imposed or recognized by law, in addition to being applied the legal regime of Public Law. For Otávio Yazbek (2007), the distinct private nature of self-regulation does not imply the horizontality of the relationship between the parties, but a subordination sustained by the typical instrumentality of the relations between private agents. This issue will be addressed in section 3, when integrity programs will be addressed.

Despite the distinctive features presented, regulation and self-regulation also share obstacles, such as the constitution of a regulator; the constant changes in the market; the management of the coordination process; the activities that ensure the inspection and repression of infractions; and the relationship of cooperation between regulatory and self-regulatory agents (DONAGGIO, 2016).

In view of the limits of these forms of market coordination, some measures are necessary to make them more effective, such as supervision by the state regulator, accountability to society and the self-regulator's responsibility for its actions and omissions (DONAGGIO, 2016).

On the other hand, it is possible that self-regulation presents risks of conflict of interest, affecting not only the clear definition of its objectives, but also the rigor of application of the rules. In other words, self-regulation, due to its private nature, may favor the interests of the class that establishes it. Dias and Becue (2012) also point out that it can be a preventive measure against severe state regulation. There is also the risk that self-regulatory standards are strictly imposed with the purpose of eliminating competition, or to cover the self-regulatory entity and the regulated ones with a good reputation before stakeholders (DIAS, 2005). In view of the peculiar reasons that lead to self-regulation, Marques Neto (2011, p. 89) conceptualizes it as the "form of regulation that arises from the interest of the economic actors acting in a given subsystem, seeking the preservation of the conditions of economic exploitation, the closure of this system to new entrants or the annulment or absorption of external interferences, of state origin or not".[15]

[15] Such risks acquire greater proportion in view of the de facto monopoly exercised by B3 in the capital market, despite the absence of legal restrictions on competition and the doctrinal dissonance regarding the deleterious effects of the monopoly. In view of this reality and the relevance of the self-regulatory activity of the capital market for the development of the Brazilian economy, the need for careful state supervision and coordination is undeniable - which is why the research embodied in this work is justified. On the subject, see: PEREIRA FILHO, Celso Roberto; MAFUD, Pedro Darahem. "A New Stock Exchange: who cares". Availableat:http://conteudo.cvm.gov.br/export/sites/cvm/audiencias_publicas/ap_sdm/anexos/2013/sdm0513-manifestacaoPedro-MafudeCelso-Pereira_22-06-2013.pdf. Accessed on: July 02, 2021.

In view of these aspects of self-regulation, we will analyze the architecture of CVM and B3 as regulatory and self-regulatory agents of the capital market, seeking to ensure the independence of self-regulation and the efficient functioning of the market.

2.3 Intersections between regulation and self-regulation: the roles of CVM and B3

As discussed in section 2.1, the CVM, as an autarchy linked to the Ministry of Finance, supervises the administration of the securities market carried out by B3, which is private in nature.[16][17] CVM Instruction 461/2007 makes explicit the distinction between the roles of the regulatory agent and the self-regulatory agent, since, by delegating competence over the discipline of the markets, the autarchy reserves not only its competence to define a minimum normative content, but also to approve rules and require any necessary changes.[18]

B3[19] carries out activities related to the administration and self-regulation of registration, trading, clearing and settlement systems of the securities market. Thus, the stock exchange plays a dual role. This is because it simultaneously enables the maintenance and supervision of operations in the secondary securities market, aimed at fast and secure transactions between investors, and preserves ethical trading standards through regulation and inspection (EIZIRICK et al, 2019).

At the same time, the companies listed on B3 seek to comply with the regulations of the regulator and self-regulator to operate regularly in the capital market. From this angle, as will be discussed in the next section, compliance programs are configured as strategies adopted for company compliance.

[16] Regarding the legal nature of the Stock Exchanges, the considerations of Ary Oswaldo Mattos Filho (1986, p. 12) are relevant for this article, according to which [...] the Stock Exchanges are subordinate to the extent of the power granted by law to the market regulatory authorities, while in the other sectors they behave and govern themselves as civil associations equal to the others. They are distinguished from other civil associations to the extent of their loss of autonomy in view of the power of control created by law and granted to the State; however, such loss of a slice of autonomy does not transform them into exercisers of services delegated by the State. MATTOS FILHO, Ary Oswaldo. A natureza jurídica das atividades das Bolsas de Valores. Revista de Administração de Empresas. Rio de Janeiro, v. 26, n. 1, 1986, p. 12. However, the demutualization of the stock exchanges and their current entrepreneurial nature, exercised in the form of a corporation, should be noted, notwithstanding the public interest in private activity and the consequent state attention.

[17] It is noteworthy that CVM, in the context of an instruction, addressed the problem of the conflict of interests of a private entity as administrator of the securities market, as can be seen from the excerpt: [a] management entity of an organized market must maintain a balance between its own interests and the public interest it must serve, as responsible for the preservation and self-regulation of the markets it manages. BRAZIL. Normative Instruction 461, of October 23, 2007. Disciplines the regulated securities markets and provides for the constitution, organization, operation and extinction of stock exchanges, commodities and futures exchanges and organized over-the-counter markets. Diário Oficial da República Federativa do Brasil, Brasília, DF, 23. Oct. 2007. Available at: http://conteudo.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/400/inst461consolid.pdf. Accessed on Jan. 16, 2021.

[18] Ibid. Art. 15. It shall be incumbent upon the managing entity to approve rules for the organization and operation of the markets managed by it, covering, at least, the following: I - conditions for admission and permanence as a person authorized to operate in the markets it administers, including in the condition of partner, when required, observing the provisions of Art. 51, paragraph 2; II - procedure for admission, suspension and exclusion of persons authorized to operate in the markets it manages, including as a partner, when required; III - definition of the classes, rights and responsibilities of persons authorized to operate in the markets it manages; IV - definition of the operations allowed in the markets it manages, as well as the structures for monitoring the business carried out; V - conditions for admission to trading and maintenance of the authorization to trade securities on the markets it administers, as well as the hypotheses of suspension and cancellation of the authorization to trade; and VI - creation and operation of the self-regulation department, pursuant to Section II of Chapter IV. Sole Paragraph. The CVM may refuse to approve the rules or require amendments, whenever it deems them insufficient for the proper functioning of the securities market, or contrary to a legal or regulatory provision, observing, as to the requirement for amendments, the procedure described in Chapter VIII.

[19] Merger between BM&FBovespa and Cetip creates B3, 5th largest stock exchange in the world. Available at: https://agenciabrasil.ebc.com.br/economia/noticia/2017-03/fusao-entre-bmfbovespa-e-cetip-cria-b3-5a-maior-bolsa-de-valores-do-mundo. Accessed on 13. Jan. 2021.

Given the concomitance of CVM and B3 in the architecture of capital market control in Brazil, questions arise as to B3's commitment to self-regulation as a public limited company invested in its profit-making purpose. In other words, given that the company is responsible for both the economic function of enabling market negotiations and the coordinating function of the market, the possibility of conflict of interest is evident. For example, there is the cutting of expenses related to the regulatory function, the application of soft penalties and the omission of inspection (EIZIRIK et al, 2019).

In order to avoid the embarrassment of self-regulation and the risk of conflict of interest, CVM launched Public Hearing Notice No. 06/2007 through which it sought to improve the discussion regarding the demutualization of stock exchanges and the consequent possibility of conflict of interest in self-regulation. Considering the manifestations obtained in the referred public hearing, the autarchy dealt with the theme in Instruction no. 461/2007, whose chapter IV (articles 36 to 49), entitled "Self-regulation of the Organized Securities Markets", specifically addresses: i) the functional or structural independence of the self-regulation system; ii) the requirements for the composition of this system; and iii) the relationship between the penalties imposed by CVM and B3. Therefore, we will now address these conditions.

The separation - functional or structural - established by IN 461/2007 in the composition of B3 provided for in articles 36 and 37, has the purpose of ensuring its independence[20] and to preserve the efficient functioning and credibility of the market. The agency, in article 41, imposes the requirement to approve a specific code of conduct for the members of the Board and the Self-Regulation Department, corroborating the independence of self-regulatory structures. In compliance with the requirement, the self-regulatory role within B3 is exercised by BSM's Supervisory Board [21].

Regarding the composition of the Self-Regulation Department, paragraph 1 of article 38 is explicit in prohibiting the participation of members of the Board of Directors and the Executive Board, as well as employees and agents who perform other functions in the company, with the exception of the Director of the Department. That said, it is inferred that there is a shield between those responsible for self-regulation and those who will be supervised.

In addition, it should be noted that there is no possibility of appeal to the CVM against decisions issued by the Self-Regulation Board, which reinforces the independence between the competences of each form of capital market coordination. Nevertheless, article 49 and paragraphs allow the investigated party to request that the penalty imposed on him, or the installment agreed in a term of commitment entered into within the scope of self-regulation, be submitted to the agency as a basis for entering into a term of commitment. CVM is also allowed to reduce, when judging infractions within its competence, the penalties already applied under self-regulation. If the penalty is related to the same facts, the fine provided for in article 11, paragraph 1 of Law 6,385/1976 is limited to the sum of the penalties of the same nature imposed by self-regulation and that applied by the agency. Thus, it is

[20] According to the provisions of ABNT NBR ISO 37301, independence means the absence of any interference or pressure, or both, with the compliance function. In this context, it is essential that investigation processes are conducted without conflict of interest and that the personnel competent for the function have direct access to the governing body.

[21] BSM's Supervisory Board [...]acts in the inspection and supervision of the markets managed by B3, being responsible for inspecting and supervising its participants and the Exchange itself; identifying violations of current legislation and regulations; initiating and conducting disciplinary administrative proceedings; and administering the Loss Reimbursement Mechanism (MRP). PIMENTA, Guilherme. BSM: a court on the stock exchange. JOTA, Brasília, June 26, 2018. Available at: https://www.jota.info/especiais/bsm-um-tribunal-na-bolsa-de-valores-26062018. Accessed on: 14. Jan. 2021.

evident the effort to avoid *bis in idem*[22] and *reformatio in pejus*, in view of the judgment and application of penalties by both CVM and B3.

Having presented the role of CVM as a regulator and the requirements in relation to the self-regulatory entity, we now turn to the self-regulation exercised by B3, specifically with regard to the Novo Mercado segment in the capital market.

III. NEW MARKET AND COMPLIANCE

As a consequence of the self-regulation carried out by B3, to be authorized to access the securities market, the company must comply with the rules of B3's Access Regulation[23],which essentially encompass the organization and the human, financial and technical resources of the applicant, as well as the suitability and professional aptitude of the persons acting on behalf of the company. It is also worth mentioning the agreement to submit to the rules of the self-regulatory agent. After the granting of the access authorization, the listed company becomes the holder of rights and duties before B3. Among the duties, we highlight the compliance with the decisions of the self-regulatory agent, subject to penalties applied by BSM, including suspension and revocation of the access authorization.

When applying for access to the securities market, the company chooses the market segment in which it intends to enter, which differ in terms of legal requirements and corporate governance practices, which gives investors the choice of where to allocate their capital according to the standards that interest them - standards that are higher than those already required by Brazilian law. This system encompasses the market segments called Level 1, Level 2 and Novo Mercado. The latter, of which B3 S.A. itself is a member, consists of the highest level of corporate governance and is based on three pillars, according to Salomão Filho (2011): (i) complete information; (ii) reinforcement of minority shareholders' equity guarantees; and (iii) structural protections (existence of only common shares and conflict resolution through arbitration).

According to Salomão Filho (2015), price is commonly the main element of information transmission to the market. However, the author points to the social efficiency of the product as an appropriate index for demonstrating the commitments and impact of the activity on society. The creation of the Novo Mercado segment, due to the differentiated governance standard, exemplifies the relevance attributed to parameters other than price for investors' decision-making.

In summary,

The basic premise guiding the creation of the Novo Mercado, BOVESPA's special listing segment for companies committed to adopting high standards of corporate governance, was that a reduction in

[22] Similar controversy regarding the competences of the CVM and the Central Bank. It is suggested to read: PIMENTA, Guilherme. CVM: concurrent competence with BC does not hurt the principle of non bis in idem. JOTA, Brasília, March 05, 2018. Available at: https://www.jota.info/justica/cvm-competencia-concorrente-com-bc-nao-fere-principio-do-non-bis-in-idem-05032018#:~:text=Guilherme%20Pimenta&text=O%20colegiado%20da%20Comiss%C3%A3o%20de,do%20non%20bis%20in%20idem. Accessed on: July 2, 2021.

[23] B3's Access Regulation lists the requirements for granting and maintaining access authorization and also explains the possibility of changing the access requirements and conditions and suspension (article 26) or even revocation of authorization (article 11, paragraph 5). Among the requirements set forth in article 11, for the scope of this work, adherence to B3's regulations and submission to the rules and procedures of inspection, supervision and audit by B3 and BSM are highlighted. In addition, according to the regulation, when deciding on granting access, B3 must ensure the control and management of risks, security, integrity and credibility of the trading system, the clearing house, the central depository, the registration system and the loan contracting system managed by B3, in view of its exposure and that of its participants (article 18). B3 S.A. - BRAZIL, STOCK EXCHANGE, OVER-THE-COUNTER. B3's Access Regulation. Available at: file:///C:/Users/Lenovo/Downloads/ Regulamento%20de%20Acesso%20da%20B3_20201207%20(1).pdf. Accessed on 13. Jan. 2021.

investors' perception of risk would positively influence the valuation and liquidity of shares. Specifically, the Exchange considered that the perception of lower risk would occur thanks to additional rights and guarantees granted to shareholders and a reduction in information asymmetry between controllers/managers of companies and market participants [24]

Teixeira Ferraz (2012) systematizes the obligations assumed by companies in the segments mentioned according to the following categories: (i) additional requirements for quarterly information; (ii) additional requirement for the reference form; (iii) annual calendar; (iv) securities trading policy; (v) code of conduct; (vi) duty to inform; (vii) minimum percentage of outstanding shares; (viii) arbitration; (ix) voting limitation; (x) provisions of the bylaws; (xi) contracting the disposal of control of the company; (xii) exclusive issuance of common shares. Level 1 encompasses measures (i) to (viii), while Level 2 adds measures (ix) to (xi) to those obligations. The Novo Mercado segment, in turn, is characterized by adopting all of these measures.

The preparation and disclosure of codes of conduct are among the requirements for entry and permanence in the Novo Mercado segment[25]. These compliance programs refer to the set of procedures adopted by a business company aimed at optimizing compliance with legal rules, regulations and policies established by the organization, in order to guide business management and mitigate risks and responsibilities (ALVES, PINHEIRO, 2017; PARKER, NIELSEN, 2017).

The definition of compliance according to the Administrative Council for Economic Defense is as follows:

Compliance is a set of internal measures to prevent or minimize the risks of violation of laws arising from the activity practiced by an economic agent and any of its partners or employees. Through compliance programs, agents reinforce their commitment to the values and objectives set out therein, primarily with compliance with legislation. This objective is quite ambitious and therefore requires not only the elaboration of a series of procedures, but also (and mainly) a change in corporate culture. The compliance program will have positive results when it succeeds in instilling in employees the importance of doing the right thing. Since these employees may have different motivations and degrees of risk tolerance, the program's role is to dictate common values and objectives, ensuring their permanent observance. Compliance programs can cover several areas related to the activities of economic agents, such as corruption, governance, tax, environmental and competition, among others, independently or aggregated. (BRASIL, 2016, p. 9)

In this sense, integrity programs highlight not only a commitment to compliance with legality, but also seek to provide legal certainty to the company in a true control of the risks inherent in each sector of business activity. In addition, the existence of integrity programs has been recognized as a factor that attests to the seriousness of the economic agent (ALVES; PINHEIRO, 2017) and its commitment to ethical duties (GÓIS, 2016), which translates into a positive valuation by stakeholders and

[24] SANTANA, Maria Helena. The Novo Mercado. In: Novo Mercado and its followers: Case Studies in Corporate Governance Reform. Focus 5. 2006, p. 1. Available at: https://www.ifc.org/wps/wcm/connect/45b36361-1d58- 4c1b-98f1-999c15dd76bd/Novo%2BMercado%2Btext%2Bscreen%2B4-21-08.pdf?MOD=AJPERES&CVID=jtCwuvI. Accessed on: July 02, 2021.

[25] (op. cit.) Art. 1 These regulations govern the activities: I. of B3, as the stock exchange market administrator: a) in verifying that the companies meet the minimum requirements to enter, remain in and leave the Novo Mercado; and b) in supervising the obligations established in these regulations and in applying any sanctions.(...)

Art. 84 The provisions of these regulations do not imply any liability for B3[...].

Art. 85 Admission to the Novo Mercado does not characterize a recommendation of investment in the company by B3 and does not imply the judgment or responsibility of B3 about the quality or veracity of any information disclosed by it, the risks inherent to the activities developed by it, the performance and conduct of its shareholders, members of the board of directors, officers, members of the fiscal council or any committees or advisory bodies to the board of directors referred to in these regulations, employees and agents, or its economic and financial situation.

consequently greater insertion in the market. In addition, it can also indicate to the regulatory agent, or self-regulator in this case, a change in behavior of the regulated agent (DIAS; BECUE, 2012).[26]

In addition to the competitive and business advantage, Law 12.846/2013 (Anti-Corruption Law) also positively values the existence of integrity programs when dosimetry of the penalty. In addition, in relation to the normative imposition, CVM, through Instruction 586/2017, which amended Instruction 480/2009, established the obligation to i) define strategies that consider social and environmental impacts; ii) periodic risk assessment; iii) definition of values and ethical principles and zeal for transparency; and iv) annual review of the corporate governance system. In addition, it is required to maintain an Audit Committee, or equivalent, responsible for risk management and compliance, and the Board of Directors is responsible for ensuring compliance with integrity programs.

In short, the adoption of integrity programs translates into the incorporation of the public interest into business culture and activity and its consequent limitation:

[...] corporate actors have no motivation at all to change toward self-limitation. The natural tendency is expansion of the activities of the corporation, expansion of production, market share, power, profit. On the other side, outsiders, i.e. social movements, public opinion, political actors, possess a lot of motivation for limiting corporate expansionism but there is a lack of competence (TEUBNER, GÁSCON, 1997, p. 8-9).

As an example, the independence of an internal sector to the corporate structure aimed at implementing and monitoring the program, the creation of reporting channels and the instruction of employees are necessary and common measures in the application of integrity programs (OLIVA, SILVA, 2018).

Due to the relevance and complexity of the application of compliance, so that the program materializes and does not constitute a mere tabula rasa, ABNT NBR, in the document ABNT NBR ISO 37301, recommends parameters for action, planning, execution and checking of programs and the culture of compliance according to the nature and risks faced, highlighting the commitment of senior management, the registration of procedures, the monitoring of the measures taken.

The Novo Mercado Regulation, in turn, touches on the structure and content of compliance by establishing the independence of compliance functions in relation to operational activities[27]and the minimum content to be covered by the codes of conduct, including reference to standards for the protection of confidential information and the fight against corruption, duties towards civil society, ombudsman channels and internal competent bodies. [28][29]

[26] Given the breadth of compliance procedures, explicit references to the terms integrity programs or compliance programs are not uncommon. Therefore, an interpretative effort by program operators and control agents is indispensable when identifying the object of compliance.

[27] *(op. cit.) Art. 24 The company must implement compliance, internal controls and corporate risk functions, being prohibited from the accumulation of operational activities.*

[28] See footnote 3.

[29] As an example, an analysis of B3's Compliance and Internal Controls Policy according to the parameters recommended by ABNT NBR ISO 37301 and the Novo Mercado Regulation reveals gaps regarding an essential aspect of compliance: fostering a culture of integrity. In other words, the policy of the self-regulatory body lacks the explanation of the social interests related to the company's activity contemplated by the policy. In addition, it does not mention the existence and operation of ombudsman channels, nor the responsibilities and measures adopted by Senior Management. Nevertheless, the document clarifies the broad scope of compliance, the concepts used and the competencies of the bodies and boards included in the program's actions. It is also noted that this document is integrated by the other policies and the Code of Conduct made available by B3. This, in turn, highlights the public values incorporated by the company, the ombudsman channels and the support of Senior Management. At the end, it expressly establishes the binding nature of the documents analyzed here: In view of the commitments assumed by B3, as already highlighted, we maintain continuous monitoring of possible violations of the Code and other internal policies and rules of B3. Available at: https://ri.b3.com.br/pt-br/governanca-corporativa/estatutos-codigos-e-politicas/. Accessed on: July 02, 2021.

Nevertheless, chapter 11 of the Regulation determines as 'general provisions' "11.1 The listing of the Issuer on B3 or the admission of its securities to trading on the Organized Markets managed by B3 does not characterize an investment recommendation by B3 and does not imply B3's judgment or responsibility regarding the quality or veracity of any information disclosed by the Issuer, the risks inherent in the activities developed by the Issuer, or its economic and financial situation". This provision seems to indicate that B3 does not consider the content of the information present in the compliance programs of listed companies[30].

The binding nature of the document, however, remains a matter of debate, as set out below.

IV. INTEGRITY PROGRAMS: BINDING INSTRUMENTS?

As already discussed, one of the major issues surrounding integrity programs as self-regulatory instruments is their binding nature and consequent enforceability. Ultimately, the binding nature of the integrity program implies the attribution of a legal value to the document through the obligation of its observance and the consequent inspection and sanction in the event of non-compliance.

According to Teubner (2020), codes of conduct have reversed the hierarchy between hard law and soft law[31]. For the author, state rules should be qualified as non-binding and soft law, while private rules embodied in codes of conduct should be qualified as hard law and therefore binding. For Cross and

[30] On January 27, 2020, the members of the EDRESP research group met virtually with the educational sector of B3, after several attempts to contact them. The purpose of the meeting was precisely to understand the agency's position on the use of compliance as an instrument to assist in the control and supervision of Novo Mercado companies. Despite the kindness and cordiality with which the researchers were treated during the meeting of 01/27/2021, many questions were not answered. At the time, the educational professionals asked for the questions to be forwarded by email, pointing out that - probably - the Compliance sector of B3 would respond and/or make contact for a new meeting. However, until the conclusion of this work, there was no return. The questions forwarded to B3 are worth mentioning:

ON B3'S INSTITUTIONAL ROLE

1) How does the body understand its performance in relation to the market? Does B3 perform a public function?; 2) Does B3, as a self-regulatory entity, acting in a monopolistic manner, submit to the Access to Information Law?; 3) On the nature of compliance: for the inclusion and/or permanence of a company in the Novo Mercado segment, does B3 consider compliance as a binding instrument or as a merely declaratory instrument? 4) Does B3 consider that compliance is a parameter to be considered by the body for companies to enter its listing segments? 5) Does B3 consider that compliance is a parameter to be considered by the body for companies to remain in its listing segments? 6) How is the compliance of companies listed on the Novo Mercado evaluated by B3? If B3 does not evaluate the content, we kindly request the presentation of the reasons. If it does, how often?

ON THE USE OF COMPLIANCE AS A YARDSTICK TO BE CONSIDERED BY B3

7) How does B3 understand that it should consider a weak compliance program, fallacious and with the potential to mislead the investing public? 8) Considering that Title II, Chapter I, Section VIII (Supervision and Control), Article 24 of the Novo Mercado Regulation determines that companies must implement compliance functions; Considering that Section X (Company Documents), Article 31, item II determines the preparation of a code of conduct that includes objective rules related to the need for compliance and knowledge about the legislation and regulations in force; Whereas Chapter IV, Section I (Hypotheses of Application of Sanctions), in its article 47, item I determines that B3 is responsible for applying sanctions to the company and its managers and shareholders who fail to comply with the requirements and obligations established in this regulation; Whereas the regulation of the new market is a legal document and determines the basic guidelines for companies to enter this segment and, therefore, follows technical-legal language, which sanctions are applicable: 8.1) to companies that do not present minimum compliance parameters in accordance with technical-legal doctrine and legislation? 8.2) to shareholders and managers who deliberately implement a façade and non-operational compliance program?; 8.3) that allow adequate enforcement of the governance rules provided for companies in the new market?; 9) In the perception of B3, compliance should serve as an enforcement instrument for the Novo Mercado rules? 10) In the perception of B3, as a self-regulatory entity, should the compliance of the companies in the new market have, among its parameters, an investigative and sanctioning procedure? 11) What is the agency's interpretation of the sole paragraph of art. 31 of the Novo Mercado Regulation that establishes as optional and not mandatory the binding of third parties, such as suppliers and service providers, to the company's code of conduct?

[31] The understanding of Philipp Reimer (op. cit, p. 56) is adopted here, according to which hard law is the positivized legal norm and soft law, "proclaimed or agreed texts through which their authors explicitly do not intend to establish legal norms."

Prentice (2007), in countries where regulation is inept, integrity programs often embody stricter standards than those required by the regulator in order to attract investors[32]. In this perspective, corroborating the hypothesis of this article, it is the private actors who decide on the elaboration, content and application of codes of conduct, so the freedom to institute such a document implies its mandatory observance, since they deal with matters of public relevance, such as consumer, labor and environmental obligations.

On the other hand, as a rival hypothesis, the argument for non-bindingness consists of the freedom of internal organization of companies through codes of conduct, which aim not to submit their internal rules to judicial control. Acting in contradiction to the provisions of the codes of conduct can also be legally qualified as *venire contra factum proprium*, since the disclosure of these documents as internal rules to the company and the argument that they are mere statements about the company's intentions are contradictory.

The content of public relevance addressed by the codes of conduct, among which are consumer, labor and environmental obligations, is also noteworthy. For this reason, it is understood that the value of codes of conduct is not restricted to corporate governance[33] (PINHEIRO, 2017), i.e. internal rules aimed only at the management of internal conflicts, because

[...] codes of conduct serve to pursue public interest objectives, bringing the economy back to society. This happens, however, not through external state intervention, but through re-entry: the internalization of social demands in business decisions (TEUBNER, 2020, p. 11).

In addition to the subject matter and function of codes of conduct, the language used and the publicity given to the code are also factors that influence the delimitation of its binding nature or not. Regarding language, the more specific it is, with the description of conduct and sanctions, for example, the greater the chance that the code will be considered, in court, a binding contractual instrument (REVAK, 2012). On the other hand, the use of generic expressions and the lack of concrete hypotheses of incidence and legal consequences lead to the conclusion that the code of conduct would be non-binding, as it would only describe guidelines to the company and its stakeholders.

Regarding publicity, the disclosure and distribution of the document, especially to employees, indicates the company's intention to bind the recipients of the document to its provisions. Understanding codes of conduct as voluntary documents, imposed by the companies themselves and also coordinated by themselves, it would be possible to conclude that there is no state supervision.

From the perspective of competence, it should be noted that the self-regulatory entity requires the preparation and disclosure of integrity programs as a condition for entry into the Novo Mercado segment. In other words, only those companies that comply with the obligation in question are authorized to operate in the capital market in this segment. Therefore, for the integrity program to be a condition for access, it is logical to infer that it is given a legal value, as it would be inconsistent to require a document in which obligations are assumed in a non-binding manner. In addition, B3, when making an admissibility judgment for admission to the Novo Mercado, ratifies compliance with the

[32] In the view of Cross and Prentice (op. cit., p. 53) the profit-making vocation of companies can lead to the unnecessary regulation: *The existence of voluntary private disclosures, thus, would be considered evidence that the law is unnecessary and possibly inefficient. Private companies will go beyond legal requirements in dis- closing in order to attract capital, and they would presumably do so at the optimal level without making unnecessary disclosures, which inevitably add cost for the company.*

[33] On the relationship between governance and compliance, see: FRAZÃO, Ana. Governança corporativa e compliance como mecanismos para a superação da shareholder theory. JOTA, [s.l.] 02 de outubro de 2019. Available at: https://www.jota.info/opiniao-e-analise/colunas/constituicao-empresa-e-mercado/governanca-corporativa-e-compliance-como-mecanismos-para-a-superacao-da-shareholder-theory-02102019. Accessed on: July 02, 2021.

relevant requirements, attributing legitimacy to the information provided. Thus, in view of the interest in uniformity and the trust of stakeholders[34], pressupõe-se a vinculatividade dos programas de integridade admitidos.[35]

In view of the arguments surrounding the binding nature of integrity programs, it is possible to conclude that the effectiveness of the programs is not limited to enforcement, but essentially requires the institutionalization of the interests contemplated by the program, in addition to admitting monitoring by interested organizations:

It is the internalization of public interests – societal interests but also interests of different social actors – within the profit-maximizing corporation. We talk about workers' participation and the involvement of other stakeholders. An important element is institutionalization of certain departments within the firm that are responsible for the ecology, for labor, or for compliance, or for the public interest of course, the "codes of conduct". This is an important institutionalization. And here again we have this ambivalence code of conduct that can be just a pure window dressing without any effect whatsoever on the behavior of the firm. Just selling them as green or something. So again, the role of outside pressure is so important, so monitoring of codes of conduct by the NGO or a public interest litigation before that state's courts in order to check whether those codes of conduct are realized or not. This is an important thing to institutionalize self-limitative structure in the firm (TEUBNER, GÁSCON, 1997, p. 10).

V. CONCLUSIONS

The Brazilian economic order restricts direct state action to specific hypotheses, relegating economic activity to private actors and reserving its coordination. The relevance of the capital market for national economic development is undeniable and a prerequisite for the study undertaken in this work. In this sense, this chapter set out to ascertain whether the theoretical and normative framework related to the control of the capital market would point to the binding nature and consequent enforceability of the integrity programs of the companies listed in the Novo Mercado segment. To this end, it inductively analyzed the solid bibliography on the themes of regulation, self-regulation and compliance and the normative instruments related to the research object: CVM Normative Instruction 461/2007, Normative Instruction 480/2009, B3 Access Regulation and the Novo Mercado Regulation.

In addition, the broad concept of regulation was adopted, considering the intrinsic relationship with the economic policy adopted. As for self-regulation, the reasons and risks pertinent to this type of control were presented. Entering the field of self-regulation, the definition of compliance was outlined, the parameters for its implementation according to ABNT NBR ISO 37301, its requirement and minimum requirements in the Novo Mercado and the problem regarding the binding nature of

[34] Cross e Prentice (*op. cit.*, p. 66) highlight investor confidence as a commodity in the market: Uniform legal requirements, such as those of mandatory disclosure, can serve to enhance affective trust. Such legalization can transform trust into a "commodity"that serves as an "entity that is familiar and subject to pres- sure to conform to established standards" and serves as a "dependable anchor for easier and more trusting relationships as trust becomes routinely and predictably available, formalized, and standardized."74 Once the nature of the disclosures and the government enforcement system become regularized, investors need not expend the time, effort, and resources to fully understand the scope of the disclosures and their remedies for oppor- tunism, thus substantially reducing the transaction costs of individualized investments.

[35] *[...] considering the impact that they have on the confidence of the regulated - sometimes it is enough that a "manual of good practices" has the regulator's logo to be internally perceived by the regulated as quasi-law - and also considering the interest in uniformity and omission of conflicts of guidelines, their creation presupposes, as seen above, an express legal permission.* LOPES, Pedro Moniz. Fontes de direito regulatório: da "hard law" à (alegada) "soft law". In: GOMES, CARLA AMADO. PEDRO, RICARDO. SARAIVA, RUTE. MAÇÃS, Fernanda. (org.). Garantia de direitos e regulação: perspectivas de Direito Administrativo**.** Lisboa: AAFDL EDITORA, p. 316, 2020.

the instrument.From such analysis, it is concluded that the compliance program is inserted in the context of market coordination and is referred to as an instrument of integrity by the coordinating entities.

In addition, the regulatory framework not only highlights the existence of market surveillance and control structures, but also the maintenance of access and listing requirements as conditions for permanence, suggesting continuous control over the integrity program in the Novo Mercado. In addition, given the purpose of encouraging investors by offering a segment with a higher standard of corporate governance, the non-binding nature of the required practices would be a fallacy, since the justification of the segment and the requirement of integrity programs implies the analysis of their content and quality. In other words, the objective of protecting investors and other stakeholders would be undermined if the binding nature of integrity programs were neglected.

Thus, the hypothesis tends to be confirmed. Thus, it is understood that the requirement of integrity programs for listing in the Novo Mercado segment leads to two basic implications: i) the commitment of companies to be bound by the rules established by it; ii) the duty of inspection and sanction of the self-regulation regarding compliance with the rules stipulated in the compliance program.

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