Associação Brasileira das Entidades
dos Mercados Financeiro e de Capitais

ANBIMA

São Paulo, 29 May 2015

Secretariat of the Financial Stability Board
Via email: fsb@bis.org

Re: Consultative Document (2nd) – Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions

Dear Sirs,

The Brazilian Financial and Capital Markets Association (ANBIMA) appreciates the opportunity to comment on the revised proposed methodologies for identifying Non-Bank Non-Insurance Global Systemically Important Financial Institutions (NBNI G-SIFIs). Our comments focus on the sections 6 and 7 of the FBS/IOSCO Consultative Document related to the investment fund management industry, which we represent.

The Brazilian investment fund industry is the seventh largest fund management market globally and the largest market in emerging economies. Its role for supporting the Brazilian growth and development is widely recognized and the industry is committed to keep growing on a sound basis. Accordingly we have examined the various risks identified in the Consultative Document with great care and welcome the opportunity to provide the Brazilian perspective on the questions raised.

The Association looks forward to continuing the dialogue with regulators regarding the potential risks in the industry and the appropriate tools to monitor and mitigate them. We remain at the disposal of the Financial Stability Board and of IOSCO to explain in more details some of the information presented in this answer and to present the Brazilian investment management industry and its self-regulatory model.

Yours Sincerely,

José Carlos Doherty
ANBIMA Chief Executive Officer

Associação Brasileira das Entidades
dos Mercados Financeiro e de Capitais

ANBIMA

29 May 2015

Re: Consultative Document (2nd): Assessment methodologies for Identifying Non-Bank Non-Insurance Global Systemically Important Financial Institutions

Comments from the Brazilian Financial and Capital Markets Association (ANBIMA)

1. Summary

The Brazilian Financial and Capital Markets Association (ANBIMA) appreciates the opportunity to comment on the revised proposed methodologies for identifying Non-Bank Non-Insurance Global Systemically Important Financial Institutions (NBNI G-SIFIs). Our comments focus on the sections 6 and 7 of the FBS/IOSCO Consultative Document related to the investment fund management industry. With close to USD 1 trillion of assets under management, the Brazilian investment fund management industry has grown consistently and is now the seventh largest fund management market globally and the largest fund management market in emerging economies. The industry is committed to keep growing on a sound basis, thereby contributing to sustained and balanced long-term growth. Accordingly, we have examined the various potential risks identified in the document with great care, with the objective to assess their potential relevance for the Brazilian market, even though no individual Brazilian fund or manager appears to exceed the materiality thresholds as currently envisaged in the Consultative Document.

Our comments are summarized below:

i. It is not clear to us and to our members to what extent the risks and transmission channels described in the Consultative Document could materialize; the fund management industry presents characteristics that make it fundamentally different from the banking industry, and which explains that the industry has traditionally acted as a **shock-absorber**, notably in Brazil, instead of a potential threat to financial stability; looking at these specificities, it is not clear either that an entity-based approach is the most relevant approach to assess risks in the asset management industry, and that a broad consistency with the methodologies developed for banks and insurers should be sought;

ii. In the context of the Brazilian investment fund industry, **several characteristics** tend to mitigate some of the potential risks identified in the Consultative Document:

- ✓ Despite the consistent growth experienced these last fifteen years and the relative size of Brazilian investment funds and managers, the Brazilian market remains predominantly domestic and the funds´ portfolios are characterized by conservative asset allocations, a strong predominance of fixed income securities (and notably domestic public debt) and a high level of liquidity;
- ✓ All funds are registered, subject to regulatory requirements and supervised, and there are no *hedge funds* as generally understood internationally in Brazil; there are extensive daily and monthly reporting requirements to the regulator (including information regarding funds´ portfolios, balance sheets and the use of derivatives) which permit a close monitoring and knowledge of the funds; there is also broad transparency to the public;
- ✓ Funds are required to use mark-to-market pricing, according to processes defined and supervised by the Brazilian Securities Commission together with ANBIMA; funds are not allowed to take credit and, when using derivatives, the vast majority of operations are done with central clearing and margin arrangements, thereby reducing the ability to generate leverage; furthermore, all derivatives must be registered; liquidity management is subject to specific requirements and monitored; securities lending is possible but centralized through one main facility authorized by the Central Bank of Brazil;
- ✓ Finally, the Brazilian model which requests funds to have both an administrator and a manager, both legally responsible for the funds, creates an additional level of robustness in the market; furthermore, Brazilian funds are established as condominiums with no limited liability for investors;

iii. The Brazilian fund management industry thus appears at a strikingly **different juncture**, where it must continue growing in size (including at fund and manager level), importance, global reach, diversification and sophistication (many criteria considered in the Consultative Document) in order to serve Brazilian investors and respond to the growing financing needs of the country; the Brazilian regulatory and supervisory framework, including its strong self-regulatory component, offers the appropriate conditions to achieve this objective without creative excessive risks for the financial stability;

iv. The FSB/IOSCO Consultative Document raises important questions and the Brazilian fund management industry, represented here by ANBIMA, will continue working in the coming months and years to **address potential areas of vulnerabilities**; for instance, a joint working group has been established between the Brazilian Securities Commission and ANBIMA to discuss the need for explicit limits in terms of leverage, acknowledging the potential risks associated with excessive fund leverage as discussed in the FSB/IOSCO Consultative Document;

v. More generally, the Brazilian investment funds industry recognizes the **challenges ahead** and the need for the market to reach more maturity; notably the industry must prepare itself to different macroeconomic conditions characterized by lower interest rates; this new scenario will request changes in the composition of the funds´ portfolios in the sense of greater risk taking and longer average maturities, implying a dramatic evolution in terms of investor education and culture; the Brazilian market also must deal with the relatively limited depth of the local capital markets; new products and strategies will emerge and new areas of risks may crystalize in this new environment;

vi. Finally, we believe that there are **several important difficulties and issues with the methodology and the indicators** proposed in the Consultative Document (in addition to the identified challenge of accessing the relevant data) which could lead to a distorted, static or truncated picture of the market; we agree with the Consultative Document that **supervisory knowledge and judgment** are paramount to identify and assess the risks in the fund management industry. In this respect, **data availability** for regulators – as exists for a large part in Brazil today – is a prerequisite, together with close dialogue between regulators and the industry and adequate resources for analyzing the data. Furthermore, we stress the importance of the adoption of **effective practices and controls** at the level of managers and of a close supervision of the industry by regulators (and, in the case of Brazil, self-regulators).

2. Introduction

2.1. About ANBIMA

The Brazilian Financial and Capital Markets Association (ANBIMA) appreciates the opportunity to provide comments on the FSB/IOSCO´s Consultative Document on assessment methodologies for identifying Non-Bank Non-Insurance Global Systemically Important Financial Institutions (NBNI G-SIFIs) and to bring the Brazilian perspective to the important topics discussed in the document.

ANBIMA represents close to 90% of the Brazilian financial and capital markets participants, accounting for more than 300 members including banks, asset managers, brokers, securities dealers and investment advisers. We work for the representation and coordination of our members´ interests, locally and internationally, and are dedicated to the development of stronger capital markets in Brazil. We serve the needs of our members and other stakeholders through a range of activities: **self-regulation** (including supervision and enforcement), **representation**, professional **certification**, financial **education** and the provision of market indicators and industry **data**. ANBIMA has been a member of the IOSCO´s Self-Regulatory Organizations Consultative Committee (SROCC, later renamed IOSCO´s Affiliate Members Consultative Committee, AMCC) since 2005 and chairs this Committee since 2013.

Participants of the fund management industry represent a significant portion of ANBIMA´s membership. Since the early days, the Association has acted as an important forum for members to **develop rules and raise standards across the Brazilian fund management industry**. The Association has adopted in 2000 the ANBIMA´s Investment Funds Code[1], which was subsequently extended and strengthened, and includes important provisions such as the mark-to-market pricing obligation and liquidity rules for credit funds. The Association then adopted a separate Code for Private Equity (FIP – *Fundos de Investimento em Participações*) and Venture Capital Funds (FIEE – *Fundos de Investimento em Empresas Emergentes*). In addition, several other Codes of the Association are relevant for activities associated with fund management, such as the ANBIMA´s Code for Qualified Services, which covers activities such as custody, fund accounting and controlling, and the ANBIMA´s Code for Retail Distribution. All the Codes are regularly reviewed, updated and/or extended, to reflect changes in the market and ensure the adoption of robust standards and practices across the industry.

The Association´s Investment Funds Councils for Self-Regulation (‘*conselho de autorregulação*’) and the Investment Funds Monitoring Commission (‘*comissão de acompanhamento*’) are independent

[1] http://portal.anbima.com.br/fundos-de-investimento/regulacao/codigo-de-fundos-de-investimento/Pages/codigo-e-documentos.aspx

bodies that are responsible for the supervisory activities of the Association regarding members´ compliance with the Code.[2] In 2014, ANBIMA received close to 300 requests for adhesion to its Codes. Looking at the ANBIMA´s Investment Funds Code only, over 600 institutions are signatories of the Code, representing the entire industry.[3]

Figure 1: Institutions signatories of ANBIMA´s Self-Regulatory Codes
List as of end-2014

ANBIMA´s Codes	Number of institutions
Certification	805
Private Equity/Venture Capital	270
Funds (Administration and Management)	654
Funds (Distribution)	118
Wealth Management	26
Trading	150
Public Offers	298
Private Banking	20
Qualified Services	47
Retail	82

Source: ANBIMA

In addition to the development of self-regulatory rules that complement or detail existing regulations established by Brazilian statutory regulators, ANBIMA establishes the ANBIMA´s Fund Classification which is common to all the industry. ANBIMA also publishes daily data on Brazilian funds, as well as periodic reports and data on the Brazilian fund management industry.

2.2. Relevance of the FSB/IOSCO Consultation for the Brazilian investment fund industry

Our response focuses on the proposed methodologies for **the identification of global systemically important funds and asset managers**. Although none of the Brazilian fund or asset manager appears to be above the thresholds currently contemplated in the Consultative Document (see below), the Brazilian fund management industry has been growing consistently over the last fifteen years and is now the **seventh largest fund management market globally**.[4] Total assets under management (AUM) have reached close to USD 1 trillion (R$ 2.6 trillion) and now exceed 50% of the Brazilian Gross Domestic Product (GDP). It is a significant source of financing and an important channel of savings for Brazilian investors, with 3.8 million retail fund investors alone.

[2] The Commissions are responsible for monitoring the members´ compliance with ANBIMA´s codes; failures in compliance are then assessed and sanctioned by ANBIMA's Councils.
[3] Institutions may adhere to ANBIMA´s Codes without being a member of the Association.
[4] http://www.ici.org/info/ww_12_14_sup_tables.xls. Estimates as of end-2014.

The role of the Brazilian fund management industry for supporting the growth and development of the country is widely recognized[5] and the industry is committed to keep growing on a sound basis, building on its strong foundations – demonstrated by the good resistance of the Brazilian fund management industry to various episodes of stress (see below section 4.5) – and learning from international experience. From this point of view, the FSB/IOSCO´s Consultative Document (together with other discussions taking place in various international fora) brings useful questions regarding the potential sources or channels of risks in the fund management industry as it keeps growing.

The objective of this response is therefore to assess the relevance of these questions generally and within the Brazilian context. We also try to identify the impact of some domestic characteristic as potential mitigating (or aggravating) factors.

The remainder of our response starts by a short discussion of the potential systemic risks in the asset management industry and the important differences with the banking sector. It then presents the Brazilian regulatory and supervisory framework for investment funds and some of the main features of the Brazilian fund management industry. We then discuss some of the questions raised in the FSB/IOSCO´s Consultative Document, before providing some concluding remarks.

3. Systemic risks in the asset management industry and the differences with the banking sector

The banking and asset management industries are fundamentally different. Their histories contrast in terms of failures and episodes of financial instability, which partly explains that the supervisory and regulatory models have also historically fundamentally differed. The asset management model is by nature an “agency” model, in which the investors´ assets are segregated from the manager´s balance sheet and in which only the investors bear the investment risk. In contrast with banks´ balance sheets, funds´ assets are generally valued at market prices and the level of leverage is considerably lower for most funds than for banks. From this point of view, the analysis of risks in the fund management industry has to be different from the analysis applicable to banks.

[5] See, for example, ANBIMA 2015 Investment Funds Congress, May 2015: *´The Brazilian fund management industry has a fundamental role to play in the allocation of savings and for the financing of new investments´* (Mr. Pereira, President, CVM); *´We know the importance of this industry to strengthen the dynamism of Brazilian savings and to allocate our capital to our different needs, from the financing of the Brazilian public sector to the investments of the Brazilian private sector and in the area of infrastructures´* (Mr. Joaquim Levy, Ministry of Economy).

4. The Brazilian regulatory and supervisory framework

4.1. Overview

The Brazil's regulatory framework is organized by Laws no. 4.595/64 and no. 6.385/76, as amended. The National Monetary Council (‘*Conselho Monetário Nacional’*, CMN) is responsible for implementing the laws enacted by the Congress. It is empowered to establish norms (namely, “resolutions”), which are implemented by the Brazilian Central Bank (‘*Banco Central do Brasil’*, BCB) and the Brazilian Securities Commission (‘*Comissão de Valores Mobiliários’*, CVM), as well as insurance and pension authorities.

The BCB is empowered to regulate and supervise the banking system; and is entrusted to maintain the enforcement of its regulations through fines, warnings, suspensions and temporary disqualifications. The CVM is accountable for maintaining the sound functioning of the national securities’ markets, protecting investors from fraudulent practices, while ensuring that they have access to adequate information. The Brazil’s Securities Commission issues regulation mostly through “Instructions” and enforces its regulations through sanctions similar to those available to the BCB.

4.2. Investment funds regulation

Prior to any marketability effort, **all Brazilian investment funds must be registered by the CVM**. The Brazilian Securities Commission recently issued the Instruction ICVM no. 555/14, which regulates the establishment, management, operation and information disclosure of investment funds. This new Instruction modernizes the regulation applicable to investment funds through simplification of procedures, rationalization of documentation, easing of foreign investment limits, among other measures. These initiatives aim at increasing the segment’s efficiency, building on the existing strong regulatory framework and the product´s robustness.[6]

The CVM Instruction no. 555 defines asset and issuer concentration limits for mutual funds, in general, and according to the different existing fund categories (e.g. fixed income, equity, currency, etc.), together with a series of additional restrictions. For example, funds regulated by this Instruction must comply with a limit of 20% of their net asset value invested in securities issued by a given financial institution, 10% for a listed company and 5% for other private companies – unless other, specific limits for the fund’s category are defined. The new ICVM no. 555 also covers mutual funds’

[6] Instruction no. 555/14 is expected to supersede Instruction no. 409/04 that previously regulated the mutual funds segment from July 2015 onward.

liquidity management (as already updated in 2012), including the obligation to perform periodic stress tests assessing the resilience of the fund´s liquidity. In addition, investment fund regulation in Brazil presents specific features which are relevant in the context of the present consultation:

a) The Brazilian model of condominiums

Firstly, contrary to other jurisdictions where investment funds are established as investment companies, in Brazil, investment funds are established as ***condominiums*** (both open-ended and closed-ended). One of the implications of this model is that Brazilian funds do not have a “Board of Directors”, which is substituted by General Shareholder Assemblies. On such occasions, all funds’ shareholders are entitled to a vote per share on topics such as the replacement of a fund’s service provider (e.g. the administrator, manager or custodian) and any change on the fund’s statute or investment policy, among other subjects.

The concept of investment funds as condominiums also implies that every loss incurred by the fund – apart from the resulting changes on administration fees – is solely borne by the shareholders, and that, contrary to investments in registered companies, holders of Brazilian investment funds are *not* subject to the principle of limited liability.

In this framework, if a fund ever fails to adequately manage its liquidity and, thus, is unable to respond any redemption orders, all redemptions must be suspended until second order. During this temporary suspension, an extraordinary shareholder assembly must be organized, so the funds’ investors may determine how to proceed (e.g. replace the fund manager; allow redemptions in less liquid assets; among other options). However, this process has been seldom utilized (see below section 4.5) and without creating stress in the market.

b) No *hedge funds* as such

Private funds – as defined by the FSB/IOSCO´s Consultative Document (mostly private equity and hedge funds) – are materially different from their Brazilian counterparts.

According to the Brazilian investment funds regulation, the acquisition of investment funds’ shares may be restricted to qualified or professional investors[7]. The main differences between qualified/professional investors’ funds and retail funds relate to the foreign investment restrictions and concentration limits that these funds must comply with, as defined by ICVM no. 555. Investment

[7] Qualified and professional investors are mainly defined according to the total value of financial assets they own. For a more precise definition of both qualified and professional investors, see CVM Instruction n. 554/14. A breakdown of the Brazilian investment funds´ customer base is available below.

funds restricted to qualified/professional investors are more flexible, whilst retail funds need to comply with stricter portfolio composition limits. In addition, the calculation of performance fees can vary in the case of qualified investors' funds and redemptions in money must be guaranteed by all retail funds, but just a few qualified investors' funds.

In terms of investment strategies, the Brazilian balanced/mixed investment funds ('Fundos multimercado') defined in ICVM no. 555 are the most flexible in terms of investment limits, yet these funds are subject to the requirements applicable to other mutual funds, and therefore operate significantly differently than hedge funds as known in the rest of the world. Notably, all funds' portfolios are marked-to-market on a daily basis utilizing variable Net Asset Value (VNAV) processes supervised by CVM as well as independently by ANBIMA (for the signatories of the Association's Code, i.e. the vast majority of the industry).

Private equity funds ('Fundos de Investimento em Participações' - FIP), in turn, are subject to specific provisions established by CVM Instruction no. 391/03 and are also registered and supervised by the CVM, and independently by ANBIMA. Among the rules in place for these funds, FIPs are forbidden to use derivatives, except for hedge purposes, and must take an active role in the decisions taken by the companies in which the fund invests and effectively influence their strategic policies and management.

c) Extensive reporting requirements

A third specific feature of Brazilian investment fund regulation relates to the existing reporting requirements. All Brazilian funds are subject to **extensive reporting requirements**. The composition of funds' portfolios and balance sheets, for example, must be monthly reported to the Brazilian Securities Commission; and this information is later made public on the CVM website[8] which presents a very large database, displaying information regarding unit price, net asset value, number of unit-holders, amounts of subscriptions and redemptions, balance sheet´s information, as well as the fund´s prospectus and summary of key information.

Such transparency requirements for investment funds also apply to investments in foreign assets. CVM recently expanded in its new Instruction no. 555 the international investment limits for mutual funds from 10% of their portfolios to 20%, under the condition that such investments are subject to disclosure requirements similar to those applicable to domestic assets.

[8] http://sistemas.cvm.gov.br/?fundosreg

Additionally, the CVM receives weekly reporting regarding the outstanding positions in derivatives of each fund from the Brazilian exchange (margins and notional) as well as by CETIP[9] (notional). These data permit a monitoring of each individual fund, as well as of the overall risk profile of the entire industry.

The revision introduced by the Instruction CVM no. 512/11 also imposed since 2012 daily reporting requirements on Brazilian mutual funds regarding the level of liquid assets in their portfolios and their cash flows, together with daily reporting on subscriptions and redemptions, Net Asset Value (NAV), number of shareholders. Fund sensitivity to market moves, operations with related parties and private credit must also be reported.[10]

Lastly, Brazilian investment funds also have individual accounts at central depositories and trade repositories (e.g. CETIP and BM&F Bovespa). This provides an additional source of data on funds, including for supervision purposes (beyond the data provided by the fund administrator).

d) Specific restrictions applicable to Brazilian investment funds

Another particular aspect of Brazil's funds regulation **prohibits these investment vehicles to take credit**.[11] Furthermore, Brazilian investment funds are only authorized to partake on **securities lending** trough services previously authorized by the BCB or CVM. In practice, this means that securities lending activities executed by investment funds are CCP cleared and guaranteed by BM&F Bovespa, the Brazilian exchange, through its securities lending system BTC.[12]

The **use of derivatives for investment funds is also regulated**. Most fixed income investment funds, for example, may only acquire derivatives for hedging activities (according to the concentration limits specified for each type of asset).[13] In addition, the CVM requires all administrators to disclose

[9] Cetip offers services related to registration, central securities depository (CSD), trading and settlement of assets and securities. It is Latin America's largest depositary of fixed income securities and Brazil's largest private asset clearinghouse.
[10] The Instruction modified the content of the two periodic reporting forms called *Informe Diário* (daily report, Article 71, I) and *Perfil Mensal* (monthly profile, Article 71, II, c).
[11] Article 89, II of CVM Instruction n. 555. Funds may enter into reverse repurchase agreements, operations that are guaranteed by public debt securities.
[12] *Cf.* BM&F Bovespa, http://www.bmfbovespa.com.br/en-us/services/download/FAQ-Aluguel-de-Ativos-ingles.pdf; BTC publishes the overall volume and financial value information (by issuer) for open-loan positions.
[13] *Cf.* Article 111, II; Article 112, III; and Article 113, III of CVM Instruction n. 555. The restriction applies to the various sub-categories of fixed income funds labelled as Short term, Indexed, Simple Fixed Income, and External Debt.

whether or not a fund utilizes derivatives, and requests them to make public the maximum permissible leverage allowed for each fund.[14]

e) Product regulations

In addition to the funds covered by ICVM n. 555, the Brazilian CVM introduced respectively in 2001 and 2004 two separate regulations (ICVM no. 356 and no. 444) for receivables-backed investment funds ("*fundos de investimento em direitos creditórios*" – FIDC). These funds, which can only be acquired by professional or qualified investors, are one of the main credit securitization vehicles in Brazil (although if the market segment as a whole remains small).[15] The growth observed is notably the result of the consolidation of the regulatory and self-regulatory framework along the years aiming at strengthening the robustness of the product (e.g. through a better segregation of the different functions involved and changes in applicable accounting rules). A similar evolution has occurred in the case of the Brazilian real estate investment funds (*fundos de investimento imobiliario – FII*), regulated by ICVM no. 472 and 206. In the case of both funds FIDC and FII, specific regulations,[16] together with reporting requirements, contribute to reduce the potential risks associated with these products and allow an effective monitoring.

4.3. Asset manager regulation

In addition to a vast revision of the Brazilian fund management regulation, the regulation relating to the managers was also recently revised by the CVM. Instruction no. 558/15 will supersede the older (and several times amended) Instruction no. 306/99 from January 2016 forward. This new instruction defines two different activities: the "fiduciary administrator" (*ipsis litteris* translation of '*administrador fiduciário*') and the "manager" ('*gestor*'). Contrary to most jurisdictions, Brazilian investment funds require both an *administrator* and a *manager*.[17] Since Brazilian investment funds are established as condominiums (see above) and have no legal personality, **both the administrator and the manager are the legal representatives** of their funds and legally responsible for them.

[14] This maximum leverage allowed is defined as the maximum percentage of the funds' net asset value which is allowed to be deposited as margin (*cf*. ICVM no. 555, Annex 42).
[15] As of 2014, only 1% of total credit operations was securitized in Brazil. Source: ANBIMA.
[16] E.g. FDICs and FIIs are not authorized to use leverage and can only use derivatives for hedging purposes.
[17] However the same institution can provide both services, as long as it is registered for both activities, complies with existing requirements and has implemented effective segregation.

Even though these two functions resemble different aspects of the asset manager´s activity as generally understood, the administrator and the manager have different attributions and, as such, have **different obligations** which are clearly defined in the new ICVM no. 558. The fiduciary administrator is responsible for the correct setup and maintenance of the fund. As such, the administrator is responsible for the adequate compliance and disclosure of information to the national authorities. It is also responsible for the communication with investors as well as for the correct pricing of the funds' shares. In turn, the fund manager is the main responsible for executing the investment strategy defined by the funds´ statute. Both administrators and managers must register at the CVM, according to the requirements and preconditions set by ICVM no. 558.

The new norm increases **transparency** to a level unprecedented, to such extent that the new disclosure requirements for administrators and managers are comparable to those of open capital companies.[18]

Finally, the new ICVM no. 558 includes provisions with respect to the distribution of investment funds. According to the current legislation, the activity of distribution is restricted to those institutions which are authorized participants of the so-called *distribution system*: investment banks, securities firms, brokers, tied agents and, in the case of investment funds, commercial banks. This means notably that the distribution of foreign funds in Brazil or through Internet is subject to the double local registration requirement regarding the fund itself, and the distribution agent. The new Instruction ICVM no. 558 will bring an exemption by authorizing managers to distribute their own funds, even if the manager is not authorized as a participant of the distribution system. However, these managers will be subject to the CVM supervision regarding the requirements applicable to the members of the distribution system, in case they apply for this option[19].

4.4. Supervisory approach

The supervisory model for the Brazilian investment funds industry was fundamentally reformed in 2002 when the supervisory mandate of the CVM was extended to all investment funds (the previous mandate covered only equity funds), taking over the former supervision by the Central Bank of Brazil. This move to a dedicated and specialized supervisor brought significant improvements in the

[18] *Cf*. ANBIMA, "Of. Dir. 039/14". Personal information from the directors of asset management companies is also to be made public through CVM's records.

[19] CVM Instruction no. 558, Article 30 requires that managers wishing to distribute their own funds must comply with Suitability, Anti Money Laundering and Investor's Registration rules. Furthermore, a manager who also distributes its funds must not rely on any other institution to distribute its own funds' shares or quotas.

supervision of Brazilian funds. Since that date, the CVM has established a close, *hands-on* supervision of the funds, complemented by ANBIMA´s supervision, which include a **monitoring** of the funds´ liquidity, pricing and exposure profile based – among other things – on the extensive funds´ periodic reporting.

4.5. Past episodes of stress

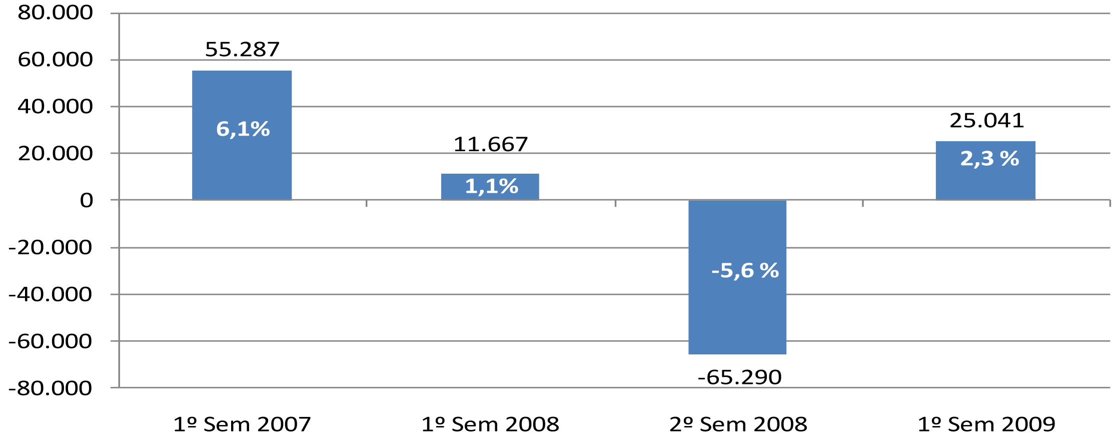
As mentioned above, funds have tools to manage periods of stress on liquidity, including by suspending redemptions. However, this process has been seldom utilized, reflecting the generally liquid profile of Brazilian investment funds and the large portion of domestic public debt securities held in funds´ portfolios. As discussed above, funds´ liquidity management is also closely monitored by the Brazilian Securities Commission, as well as by ANBIMA (for those institutions that adhered to the ANBIMA Code of Funds).

During the global financial crisis of 2008, the Brazilian financial sector as a whole resisted remarkably well,[20] and, in the case of investment funds, **limited outflows** were recorded, a process which took place without significant disruption. Between 2007 and 2008, the Brazilian fund management industry experienced a small reduction in total assets (1%)[21] in comparison with the large reductions observed in other jurisdictions. The surge in redemptions observed in Brazil mostly occurred in the second semester of 2008 (see Figure 2 below), but without threatening the liquidity of the funds. Fixed income funds and diversified funds (*multimercado*) were most affected (Figure 3). While savings accounts and CDI (‘*Certificado de Depósito Interbancário*’—Interbank Certificate of Deposit) benefited from the outflows from Brazilian investment funds, **public debt funds** also recorded positive inflows during that period.

[20] See IMF/World Bank, Brazil´s Financial System Assessment Plan, June 2012, available at https://www.imf.org/external/pubs/ft/scr/2012/cr12206.pdf
[21] Source: ANBIMA.

Figure 2: Net sales of Brazilian investment funds, 2007-2009

In R$ millions

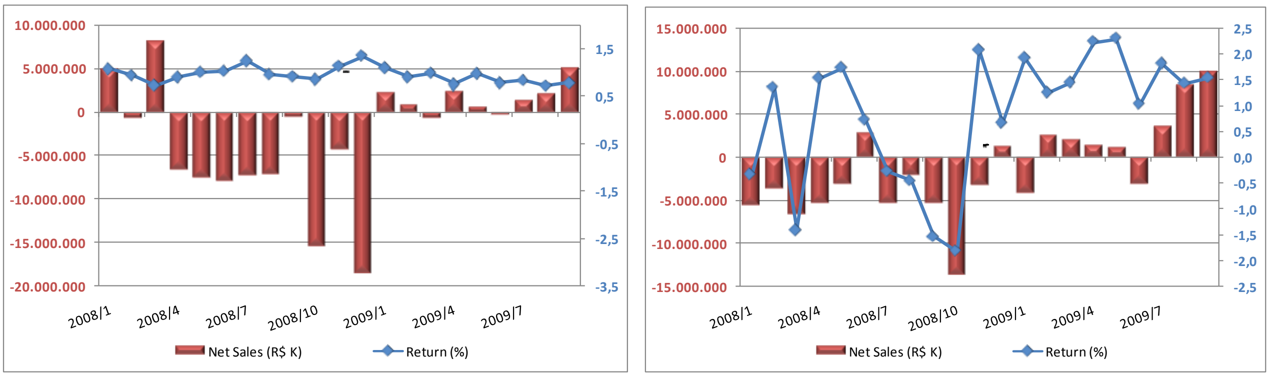


Source: ANBIMA.

Figure 3: Net sales and return in selected Brazilian funds, 2008-2009

In R$ thousands and in %

Brazilian Fixed income funds / Brazilian Diversified funds (*multimercado*)



Source: ANBIMA.

Going back further, the Brazilian fund management industry experienced substantial outflows in the year 2002, following the rise of the spreads in Brazilian Treasury bonds which negatively impacted the funds´ results.[22] This episode (referred to as the **´mark-to-market´ crisis**) led to the introduction of stricter mark-to-market obligations for Brazilian funds from June 2002,[23] together with, as mentioned above, continuous monitoring from the CVM and ANBIMA of the effectiveness of the processes established.

[22] Total outflows in 2002 amounted to R$ 60 billion. Source: ANBIMA.

[23] BCB, Circular no. 3.086; ICVM no. 365.

5. The Brazilian fund management industry

5.1. An industry which has grown over the years but still without large global players

The Brazilian fund management industry has grown from R$700 bn in 2002 to R$2,6 tr in 2014, i.e. a growth of 254% in real terms. Slightly **over 500 managers** are currently registered (compared to approximately 150 in 2002), although, like in most other countries, the concentration is high, with approximately 84% of the total assets under management in the hands of the twenty largest fund managers (domestic and foreign-owned), of which approximately **63% concentrated in the five largest managers**.[24] In terms of ownership structure, the Brazilian model is closer to the European structure: **most of the largest fund managers are subsidiary/affiliate of banking groups** and the distribution is mostly done through the banking networks. Although many of the smaller managers are independent, there are as of today only five independent managers among the top 20 managers for a total of only approximately 3% of the total assets under management.

Despite the concentration of the Brazilian fund management industry, even the largest Brazilian fund managers are **still small in comparison with global players**, with the three largest Brazilian fund managers each totalizing around US$200 billion of assets under management (the world 15´s largest fund managers all totalize over US$ 1 trillion each, with the 5 largest managers totalizing over US$ 2 trillion each) (see Figure 4 below). Although some of the Brazilian managers have recently initiated or accelerated their international expansion, their market is still mostly domestic and their international footprint limited.

[24] Source: ANBIMA, as of end-March 2015.

Figure 4: Top Brazilian Managers
Extract from P&I/Towers Watson World 500 – World´s Largest money managers
Ranked by Total AUM, in US$ billion, as of end-2013

Rank	Manager	Total assets in US$
77	BB DTVM	US$ 226
94	BRADESCO	US$ 181
100	Itau Unibanco	US$ 169
169	Caixa Economica Federal	US$ 75
190	BTG Pactual	US$ 61
283	Safra	US$ 28
381	Banco Votorantim	US$ 15
461	Opportunity	US$ 8

Source: http://www.pionline.com/article/20141110/INTERACTIVE/141109944/the-pitowers-watson-world-500-worlds-largest-money-managers.

At March-2015, the top 10 Brazilian fund managers ranked by total AUM were the following:

Figure 5: Top Brazilian Managers
Ranked by Total AUM, in R$ and US$ billion, as of end-March-2015

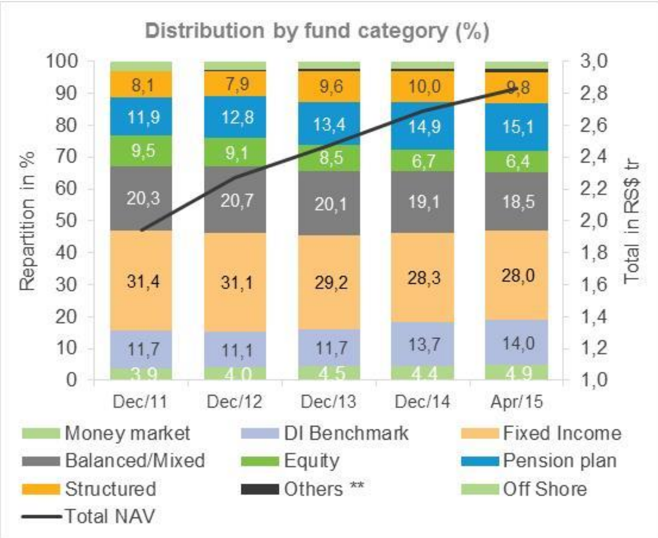
Rank	Manager	Total assets in R$	Total assets in US$
1	BB DTVM	R$ 582	US$ 179
2	Itau Unibanco	R$ 400	US$ 123
3	BRADESCO	R$ 354	US$ 109
4	Caixa Economica Federal	R$ 197	US$ 61
5	BTG Pactual	R$ 134	US$ 41
6	Safra	R$ 51	US$ 16
7	Banco Votorantim	R$ 36	US$ 11
8	Verde	R$ 24	US$ 7
9	Opportunity	R$ 20	US$ 6
10	Sul America	R$ 18	US$ 6

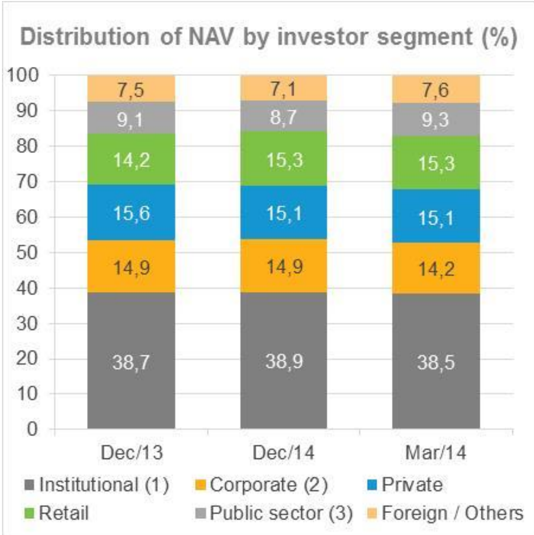
Source: ANBIMA. Verde, Opportunity and Sul America are independent managers. Others are subsidiary/affiliate of Brazilian banking groups. Date and methodology differ with the P&I/Towers Watson World 500 ranking provided above.

5.2. A high number of funds and, consequently, a relatively low average fund size

In terms of funds, over 14,000 investment funds are currently registered in Brazil, with fixed income largely dominating (close to 60% of the funds´ portfolios, with only 9% allocated to equity) (see chart below). In terms of customers, institutional investors represent 43% of the Brazilian funds´ customer base, with corporate, private and retail clients representing approximately 15% each.

Figure 6: Repartition of total net assets of Brazilian funds by type of funds and by clients





Source: ANBIMA. * FIDC and FIP; ** Foreign exchange linked, External debt and Exclusive funds.

(1) Pension funds, Insurers, funds; (2) Corporate, Middle market; (3) incl. social providence regime.

The relatively large number of funds registered explains that the **average size of Brazilian funds is still low in comparison** with other jurisdictions (for instance, there are less than 8,000 mutual funds registered in the US and approximately 3,500 in Ireland, in comparison to over 14,000 in Brazil).[25] Various factors explain the high number of funds in Brazil, including the absence of a share class system, and the high number of exclusive funds (‘*fundos exclusivos*’) established for a single or a small group of shareholder(s).

Looking at the ten largest Brazilian funds, they are below the thresholds considered in the Consultative Document (i.e. US$ 30 bn in NAV and balance sheet financial leverage of 3 times NAV or US$ 200 bn in gross AUM (GAUM)). Although relatively big in the context of the Brazilian market, these large funds are characterized by a low-risk profile, low/no leverage and high level of liquidity, together with a high degree of substitutability with other similar funds.[26]

[25] Data from ICI.

[26] For example, Benchmark DI funds mostly hold public debt and some high-quality private debt.

Figure 7: Top 10 Brazilian funds

Ranked by Net Asset Value, in R$ and US$ billion, as of end-March 2015

Rank	Manager	Fund name	Category	NAV (R$)	NAV (US$)	Status
1	BB DTVM SA	BB TOP CP FI CP	Short Term	90	29	FF
2	Itau Unibanco	ITAU FLEXPREV RENDA FIXA FI	Fixed Income Pension Fund	60	20	FI
3	Itau Unibanco	SPECIAL REFERENCIADO DI FI	Benchmark DI	60	19	FF
4	BB DTVM SA	BRASILPREV TOP TPF FI RF	Pension Plan	55	18	FF
5	BRADESCO	BRADESCO FI RF MASTER II PREVIDENCIA	Pension Plan	52	17	FF
6	BB DTVM SA	BRASILPREV TOP TP FI RF CREDITO PRIVADO	Pension Plan	39	13	FF
7	BB DTVM SA	BB RF IV FI RF LP	Fixed Income	36	12	FI
8	BB DTVM SA	BB CARTEIRA ATIVA FIA	Closed Equity Fund (ACFEC)	35	11	FI
9	BRADESCO	BRAM FI REFERENCIADO DI CORAL	Benchmark DI	34	11	FF
10	BB DTVM SA	BB TOP DI FI REFERENCIADO DI LP	Benchmark DI	33	11	FF

Source: ANBIMA. Benchmark DI: Funds indexed on CDI (*Certificado de Deposito Interbancário* - Interbank Certificate of Deposit). FF: Funds of funds (*Fundos de Investimento em Cotas de Fundos de Investimento*); FI: Investment Funds (*Fundos de investimento em ativos financeiros*).

5.3. Leverage and use of derivatives

Although leverage is permitted for most Brazilian investment funds,[27] in practice, monitoring from the Brazilian CVM[28] indicates that the amount of leverage remains limited. With regard to "synthetic leverage" (using derivatives), outstanding positions for retail funds are usually small, **conducted on the exchange (BM&F Bovespa), with central counterparty and margins, or in ´organized´ OTC markets through CETIP** (see note n. 9, above – in this case, contracts are registered but there is no margin requirement). These positions are usually held for hedging purposes and do not generate substantial leverage at the level of the fund. They are also – as mentioned above – monitored by the CVM, and all derivatives are registered. Short selling remains also limited, mostly because of the lack of liquidity. In the case of stocks, short selling is possible through BTC, a service of BM&F Bovespa

[27] However, some investors may have restrictions which constrain them to invest only in funds with reduced leverage. Notably, CMN Resolution n. 3792 applicable to pension funds imposes a maximum leverage of 1 time the NAV. Leverage is authorized only for some categories of funds regulated by ICVM no. 555. FIPS, FIDCs and FIIs are not authorized to use derivatives except for hedge purposes.

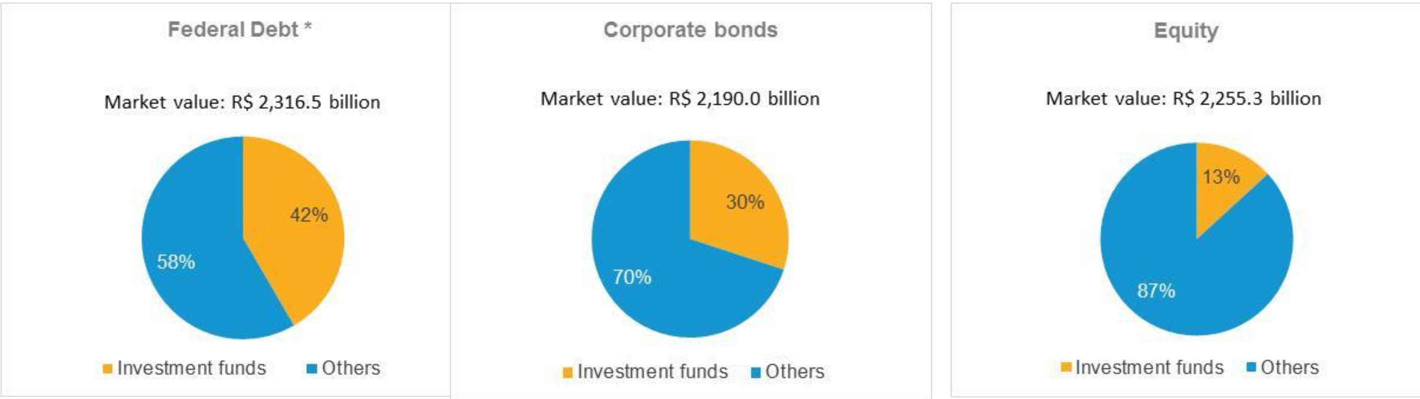
[28] *Cf.* ANBIMA Investment Funds Congress, May 2015. Looking only at balance sheet leverage, leverage is estimated to be below 5% of the funds´net asset values (funds regulated by ICVM no. 555; data CVM as of March 2015).

(see above), with central counterparty and margin calls (see above section 4.2.d)). Equity lending is also fully collateralized, according to current CVM rules.

5.4. Importance in the market

Brazilian funds are a significant source of financing. They hold approximately 42% of public debt, 30% of the fixed income securities registered in CETIP, and 13% of the listed stocks on BM&F Bovespa.

Figure 8: Percent of assets held by Brazilian investment funds
In %, as of end-March 2015



Source: ANBIMA, National Treasury. Source: ANBIMA, CETIP. Source: ANBIMA and BM&F Bovespa.

Due the elevated sovereign yields (the short-term interbank interest rate, SELIC, target was set at 13.25% p.a. on April 2015) and the generally risk-averse and liquidity demanding profile of investors, Brazilian fund managers compose portfolios that are, on average, **more reliant on public debt**, rather than private debt or equity. As most central economies struggle with minimal (if not negative) sovereign yields, the elevated SELIC rate presents another distinctive characteristic of Brazil's market.

Looking at the private debt under management, the majority is originated by financial institutions (see below Section 5.5. for a discussion); the non-financial sector, conversely, still represents just a small portion of total assets under management.[29]

In addition, Brazilian funds act as an important source of pricing information on public securities and corporate bonds, used by investors, managers and the government for marking to market or even trade (funds represent approximately 25% of the group of institutions providing price information on public securities and half of the group in the case of corporate bonds).

---

[29] ANBIMA, "Texto para Discussão 03: A indústria de fundos de investimento brasileira e o seu papel no desenvolvimento do mercado de capitais". See also ANBIMA, "Agenda do Mercado de Capitais" and IMF/WB, Brazil´s FSAP.

5.5. Interconnectedness

As detailed above, Brazilian investment funds and banks are interconnected through repo transactions and funds´ investments in bank deposits, certificates of deposits or bonds. However, repos with banks are collateralized by government bonds, thereby reducing the risks for investment funds; these transactions also do not represent a major source of funding risk for Brazilian banks. Brazilian funds´ overall exposure to the banking sector reflects the importance of the financial sector in Brazilian private debt but the counterparty risk is limited given concentration limits and the liquidity profile of Brazilian funds (a more detailed assessment of the interconnectedness of Brazilian mutual funds with other sectors was included in the latest IMF/World Bank´s Financial System Stability Assessment (*op. cit.*, p. 26)).

Interconnectedness with global markets is also limited, given the existing constraints on investments in foreign assets, although these limits have recently increased by the new ICVM no. 555, offering greater opportunities of investments and diversification to Brazilian investors. Overall, the Brazilian investment funds industry remains predominantly domestic, which also includes a participation of foreign investors still relatively limited (less than 8% - see chart above).

6. Questions related to the systemic importance of investment funds

Although some of the risks identified in the Consultative Document may be relevant, it is important to stress the fundamental differences, and risk profiles, between banking institutions and investment funds (e.g. in terms of substitutability, leverage, mark-to-market pricing, impact of liquidation, etc.), as briefly discussed in Section 3 above. Accordingly, criteria such as size may not directly provide for the assessment of a fund´s individual riskiness and the methodologies developed for banks (and insurance companies) cannot easily be replicated for investment funds. The description provided below aimed at illustrating some of these differences, as well as additional features of the Brazilian fund management regulation and industry which tend to reduce the overall level of risks associated with the sector.

6.1. Transmission channels and relevance for Brazil

Channel	Description of risks	Relevance for Brazil
Exposures / counterparty channel	A fund´s distress or forced liquidation may lead to losses at or other impairment to their counterparties, incl. banks or brokers that have extended them financing or have direct trading linkages to them	Risk especially relevant for leveraged funds ⇨ *The channel may be less relevant in Brazil due to the relatively low level of leverage of Brazilian funds and as synthetic leverage through derivatives is usually tied to mandatory risk mitigation techniques that reduce counterparty credit risks.*
Asset liquidation / market channel	Impact of distress or liquidation of a fund through asset sales that negatively impact market prices and, in turn, the market value of other participants´ positions	Risk especially relevant in a distressed market or if the fund is a dominant investor in particular markets or asset classes ⇨ *In general, assets held by Brazilian funds are relatively small relative to total market value; in some more concentrated/less liquid markets, specific funds may have a bigger position and forced sales could exert downward pressures on prices; however, it is unlikely that this would lead to systemic risks. In addition, market supervision aims at identifying the build-up of ´dominant´ positions, not only for investment funds, but also for all other participants in the market.*
Critical function or services / substitutability channel	Impact of distress or liquidation of a fund that provides a function or service upon which participants heavily rely on (e.g. highly tailored investment strategy or source of liquidity certain types of derivatives contracts)	Not applicable in general for funds ⇨ *Brazilian funds are generally highly substitutable (in addition to other alternative products);* *Brazilian funds contribute as a relevant source of pricing (see above for a description), but which does not appear critical. In general, it is not clear to us what exact functions or services are discussed here.*

6.2. Materiality thresholds and other indicators

We summarize below some comments regarding the relevance and practicality of materiality thresholds and indicators proposed in the Consultative Document for investment funds. We should stress at the outset that many of the indicators proposed are **not necessarily indicators of risk**, for instance, size or global reach. In addition, in the context of the Brazilian market, many of the indicators proposed are of little relevance to Brazilian funds, given the specific characteristics outlined above. In the future, as the Brazilian industry consolidates its growth, we expect some of these indicators to grow, reflecting a greater maturity of the sector. Such evolution should be positive for investors and the markets in general, and should not bring systemic risks at domestic or international level.

Lastly, several of the indicators proposed are facing **methodological challenges**, related to the availability of relevant data or agreement on definitions. We urge IOSCO and the FSB to consider the associated costs of additional reporting requirements when the information is already available (especially in the case of Brazil where a lot of information is made available to the regulator and/or the public) or may be irrelevant or difficult to compare or to draw conclusions from.

Our comments with respect to some of the indicators proposed follow:

i) Size in itself expressed in total assets under management is an important element of information about a specific fund but does not constitute in itself an indicator of risk. Size matters for funds, and can bring many benefits to investors, in terms of greater diversification, reduced costs, as well as a better ability to handle redemptions; the use of thresholds based on size should come together with other indicators (such as leverage) and supervisory judgment;

ii) Leverage is an important criteria to consider and should be monitored, although there are significant methodological issues when defining leverage; aspects such as central clearing and the use of collateral should be considered in the analysis of leverage;

iii) Balance sheet leverage and synthetic leverage should be monitored (albeit both types of leverage can originate financial obligations, they are of distinct nature and can be managed through different means); in the case of Brazilian funds, as synthetic leverage is mostly achieved through derivatives cleared through the exchange or the organized market, the level of margins may be a relevant indicator;

iv) Dominant player (substitutability ratio or fire sale ratio < 5%): While conceptually attracting, such indicators seem difficult to measure; market supervision aims at identifying and prevent the accumulation of excessive positions;

v) Non-centrally cleared derivatives: as explained above, this indicator is of little relevance in Brazil as the portion of non-centrally cleared derivatives is negligible given the characteristics of both the Brazilian funds and of the Brazilian derivatives markets; the global trend is towards a reduction in this part as well; in addition, monitoring of the respective positions is possible as all derivatives are registered;

vi) Percentage of collateral posted by counterparties reused by the fund: this indicator is not relevant in the case of Brazil as re-hypothecation is forbidden in Brazil;

vii) HFT: the recourse to algorithmic trading and high frequency trading in Brazilian funds has been increasing over the last years in some specific segments, although not reaching the levels observed in other countries; HFT may increase operational risks but would seem difficult to quantify as suggested in the Consultative Document; furthermore, this would only reflect one strategy one indicator among a vast range of strategies which can be implemented by funds;

viii) Global activity: the number of jurisdictions in which a fund invests or is sold/listed or where it has counterparties does not constitute an indicator of risk; on the contrary, global activity can act as a risk mitigating factor by allowing a greater diversification of both funds´ assets and liabilities and an exposure to a greater variety of macroeconomic scenarios and risks; such positive effect in our view clearly outweights the potential contagion channel discussed in the FSB/IOSCO Consultative Document; as mentioned earlier, we expect the internationalization of the Brazilian fund management industry to slowly increase in the coming years (although still constrained by existing limits) which will bring benefits in terms, for instance, of diversification of the investor base and economies of scale; without a more refined analysis, we fail to see the value in these indicators; lastly, in the case of the Brazilian investments, the new ICVM no. 555 has introduced – along with greater flexibility for investments abroad – several obligations on the manager and the administrator with respect to these operations;

ix) Other indicators: Finally, we would like to note that the list of proposed indicators are of very diverse nature; notably, in addition to the criteria discussed in our previous comments, the Consultative Document proposes several indicators (e.g. liquidity profile, nature of investor base, amount of liquidity buffers, market footprint, illiquid assets, etc.) that are part of any effective credit or liquidity risk management process; the appropriate levels of these indicators vary significantly depending on the strategy and profile of each fund; as an example, in ANBIMA´s Liquidity Risk Management Guidelines (´*Diretrizes*´), various requirements and parameters to consider are defined; an additional methodology was also elaborated in the case of funds invested in private credit where specific liquidity risk issues arise; this methodology goes with the definition of so-called ´l*iquidity factors*´ varying according to the financial instruments considered and reflecting the reality of the Brazilian market; accordingly, we believe that several indicators considered in the Consultative Document should be part of the fund´s continuous risk management and are not necessarily appropriate indicators for an entity-based designation process.

7. Questions related to the systemic importance of asset managers

Asset managers are responsible for the management on behalf of their investors, and, accordingly, the investment risk remains with the investors. The activity does not necessitate large balance sheets and, in the case of the failure of a manager, the clients´ portfolios can be transferred to another manager. Accordingly, it is not clear to us why and how the SIFI methodology would apply to fund managers. The table below presents the main risks related to asset management (as described by IOSCO/FSB) and their relevance.

Channel	Description of risks	Relevance for Brazil
Exposures / counterparty channel	Impact of the distress or failure of a manager on other participants through their exposures to the manager (not only limited to its asset management activities, e.g. securities lending agent services, provider of seed money)	No material impacts. Only commercial relationships will be wind down, but with no default at all. If a manager fails, it will be promptly substituted by other with no prejudice to the fund´s shareholders.
Asset liquidation / market channel	Potential market distress through the manager´s off-balance sheet activities (e.g. provision of indemnification and guarantees) or through its reputational/operational risk	We note that risks of very different nature are described here. Reputation risk can be relevant in the industry but there is no example where this has led to significant stress in the market. This risk can be act as a powerful discipline for managers (collectively and individually), notably in a relatively new and growing industry like the Brazilian one. With regard to off-balance sheet activities, monitoring is necessary.
Critical function or services / substitutability channel	Impact of distress or failure of an asset manager that provides a critical function or services to market participants or clients (e.g. unique expertise or significant pricing provider, securities lending agent, or providers of certain systems)	We fail to identify such critical function or service within the Brazilian market which could not be substituted. We can stress also that the segregation of the activity of money management with all other activities of a financial institution – as is the case in Brazil since 2007 – also acts as a mitigating factor. The manager, administrator and custodian are service providers to the funds and can easily be substituted, following a decision of the shareholders. Such transfer is common, notably in segments such as private equity.

In terms of data availability, as presented above (section 4.3), the Brazilian regulatory framework has recently significantly increased the **reporting requirements** applicable to Brazilian managers and administrators, including total assets under management, balance sheet information, scope of the activities and organizational structure.

8. Concluding Remarks

In the present document, we have attempted to display a broad picture of the Brazilian investment fund and asset management industry at the light of the questions raised in the FSB/IOSCO Consultative Document. Due to the smaller size, the limited complexity, interconnectedness and global presence as well as the elevated substitutability of the Brazilian investment funds and managers, it is anticipated that no funds or managers established in Brazil would currently be liable of “SIFI” designation. However, our comments are broader and do not reflect the fact that Brazilian funds or managers would or would not be covered by the proposed designation process: following this preliminary analysis conducted on the basis of the proposed FSB/IOSCO´s NBNI SIFI framework, our conclusions are the following:

i) Firstly, is **not clear** to us and to our members to what extent the risks and transmission channels described in the Consultative Document could materialize; the methodology mixes different concepts and scenarios under broad headings that **do not always reflect the reality of the industry**;

ii) Secondly, our perception is also that a single methodology based on entity-based indicators will face **challenges** related not only to the availability of data and agreement on definitions, but also with the need for continuous monitoring and analysis. Furthermore, any indicator-based methodology risks missing important market factors. As an example, the most serious episode of stress in the Brazilian fund market which occurred in 2002 (see section 4.7) was not related to a fund or manager´s size, leverage or complexity, and was solved through greater transparency and controls about mark-to-market processes.

iii) Thirdly, **existing tools** such as liquidity management, concentration limits, leverage monitoring and control, stress testing, etc. are powerful instruments to monitor and limit the accumulation of risks; they must go along with an **effective supervision of the practices** in place; the Consultative Document, as well as other discussions brought by the FSB or the IMF or IOSCO, can point to possible areas of improvements, in addition to the significant reforms which already took place internationally since the global financial crisis;

iv) Finally, we recognize the importance of **data availability** for regulators (together with the appropriate **resources to analyze** and make use of these data) in order for them to be able to strengthen their **supervisory capacities**, as well as for the investors to avoid investors´ misunderstandings about the funds they invest in or the services performed by the manager. Such data are also necessary for an effective management of risks by the fund managers. Altogether, this will strengthen the capacity to build relevant indicators for risk monitoring in the industry.

ANBIMA thanks the FSB/IOSCO for the opportunity to comment on this Consultative Document. The Association looks forward to continuing the dialogue with regulators regarding potential vulnerabilities and risks in the industry and the appropriate tools to monitor and mitigate them. We remain at the disposal of the Financial Stability Board and of IOSCO to explain in more details some of the information presented in this answer to the Consultation and to present the Brazilian investment management industry and its self-regulatory model.