

AMEC/President Letter No. 20/2018

São Paulo, December 18th, 2018

To

John Zecca  
Senior Vice President  
General Counsel North America and Chief Regulatory Officer  
NASDAQ Stock Market  
805 King Farm Boulevard  
Rockville, MD 20850  
[john.zecca@nasdaq.com](mailto:john.zecca@nasdaq.com)

**Re: Dual Class Share Structures**

Dear Mr. Zecca,

The Association of Capital Market Investors – Amec – is a non-profit association established in 2006 that gathers, among its members, 60 institutional investors, third-party fund managers, either affiliated to financial institutions or independent, based in Brazil or abroad, in addition to pension funds and development banks with more than USD 300 billion in equity mandates in Brazil.

As part of its activities, Amec works on the defense of minority shareholder rights in publicly-held companies and seeks to interact with governmental authorities and regulatory and self-regulatory agencies in a diligent and participative manner with a view to improving the standards, rules of conduct and procedures to the evolution of the Brazilian capital markets in association with the promotion of actions to encourage good corporate governance practices.

We recognize the global debate on dual class share structures. As you may be aware, our country has long lived with such instruments, given that our corporate law allows companies to issue up to one half of its share capital in non-voting share. This limit was lowered in 2001 from the original two thirds, in light of our experience in relation to the problems that may arise from such misalignment between voting power and capital contribution. In addition, in the same year of 2001, investor pressure led to the creation of the Novo Mercado, in which listed companies must abide by the one-share, one-vote system. Since 2006, virtually all IPOs in Brazil were executed in this segment, which is slowly improving the quality of corporate governance in Brazil.

Amec has long defended the one-share, one-vote policy. This has become increasingly important as the global debate on the theme caused local repercussions. One

example was during the reform of the Novo Mercado (2017), during the revision of the Brazilian Corporate Governance Code (2016) and other opportunities.

We recognize that Brazil has a number of excellent companies with a dual class structure. In our opinion, they are great not because, but despite the incentives created by such instruments. In fact, a number of important companies have recently collapsed their dual class structures – world-class companies such as Vale, Banco do Brasil, Suzano, Eletropaulo, Weg, BRF and many others. In essence, they have voluntarily realized that the costs of departing from the one share, one vote rule exceed its benefit.

In addition, it is important to mention that many of our recent corporate scandals took place in companies with leveraged ownership structures. Financial investors are always in the losing end in these cases.

Despite this strong body of knowledge in favor of a strict view on one-share, one-vote, we do realize that the global competition for listings is fierce. Many companies are opting to list in overseas exchanges, in part because they allow more flexibility in their capital structure. This *race to the bottom* in terms of listing standards is a reality of the market, and must be taken into account. It is not a coincidence the recently important companies listed in foreign markets.

For that reason, Amec has recently agreed to exceptions to the one-share, one-vote rule, in the context of IPOs of smaller companies – particularly in the technology industry. Brazil currently has a very high “minimum ticket” for an IPO (circa USD 300 mm), and we are involved in efforts to facilitate the listing of smaller companies. In such situations, exceptions may be in order. However, we condition our positive view on these structures to the existence of sunset clauses, which automatically collapse dual share class structures after seven years.

This is precisely the core of the CII proposal to Nasdaq. It therefore warrants Amec’s wholehearted support, as well as our testimony – based on our long experience on the subject – that sunset clauses are not only appropriate, but a necessary aspect of dual share class structures, if we are to care about the long-term health of corporate governance, and therefore of our economy.

Amec is at your disposal to discuss this matter further, as well as to share more information about Brazil’s experience with dual share class structures, and the appropriateness of sunset clauses in cases where they prove necessary.

Sincerely,

**THE ASSOCIATION OF CAPITAL MARKETS - AMEC**  
MAURO RODRIGUES DA CUNHA  
CEO