

TOZZINIFREIRE

A D V O G A D O S

TOZZINIFREIRE

OUTLOOK

FOR THE BRAZILIAN LEGAL AND
ECONOMIC ENVIRONMENT IN

2016

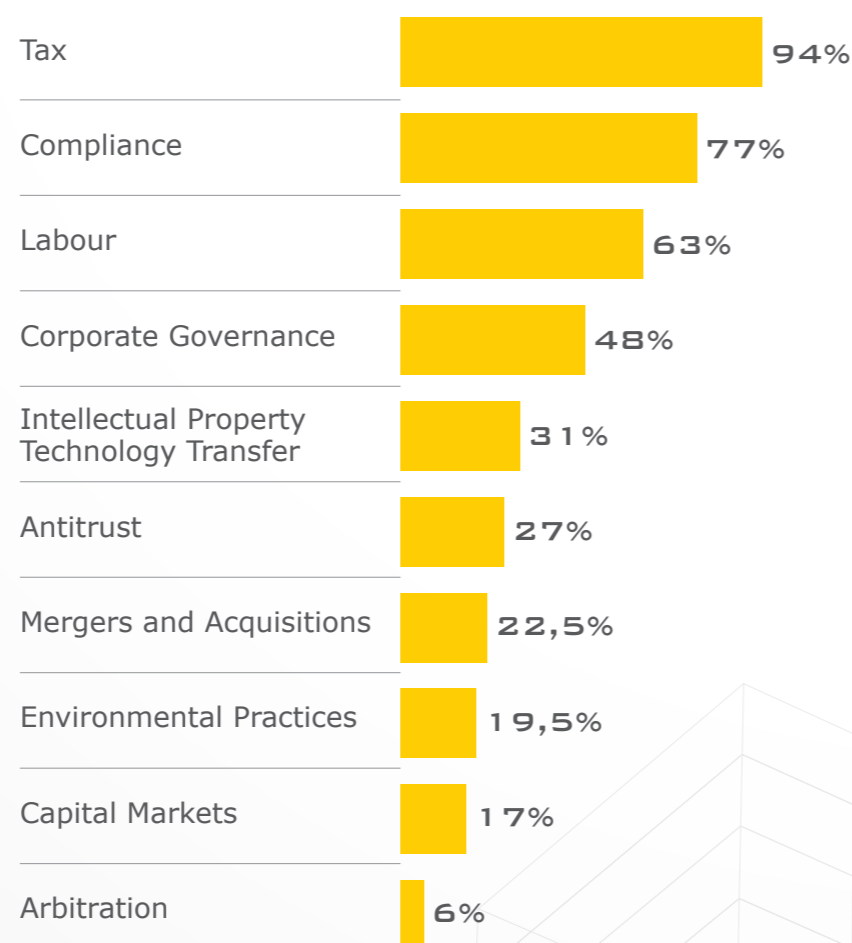
OUTLOOK FOR THE BRAZILIAN LEGAL AND ECONOMIC ENVIRONMENT IN 2016

Transparency, flexibility and the capacity for innovation: these will be the essential attributes for companies in Brazil to find their way (back) to growth in 2016. These conclusions are part of the new edition of the study "**TozziniFreire – Outlook for the Brazilian legal and economic environment in 2016**". The research gathered the opinions of over 120 executives from public and private companies in Brazil and abroad, active in sectors such as infrastructure, retail, logistics, information technology (IT), paper and cellulose, among others.

Commissioned by TozziniFreire Advogados for the second consecutive year, the study was conducted in partnership with Latin Finance magazine and European consultancy Management & Excellence (M&E), as well as the support of the Brazilian Association of Publicly-Traded Companies (Associação Brasileira das Companhias Aberta – Abrasca). The research's goal was to indicate legal trends for the next year in 11 areas, which will be detailed in the following pages.

OVERVIEW

Themes connected to compliance, corporate governance, tax, labor and antitrust issues will be priorities in 2016 for most respondents.



COMPLIANCE IS UNANIMOUS

While the study's first edition indicated that 91% of respondents intended to adopt compliance programs, the second edition showed that focus on the theme is unanimous among those interviewed.

According to Shin Jae Kim, head of TozziniFreire Advogados' Compliance practice, the data reveals that the adoption of integrity programs is perceived by managers as a strategic investment for businesses. "I believe that companies will increasingly demand

their providers and partners to have compliance programs."

Another evolution is that compliance structures that are housed in legal departments will migrate to independent structures within organizations. "An independent structure insures more effective and transparent processes, as well as being aligned with worldwide best practices" Shin explains.

A DIFFERENT POINT OF VIEW ON TAXES

Understanding the complexity of the Brazilian tax system is a challenge for 97% of consulted executives. Over 75% of them understand that new reforms need to be applied in 2016. For Ana Cláudia Utumi, partner at TozziniFreire Advogados' Tax practice, it is natural for most people to be skeptical about the current scenario, but in the medium and long term, the creation of electronic platforms to submit accessory obligations to fiscal responsibilities, the Sistema Público de Escrituração Contábil (Sped), could be seen in a more positive light.

"After the initial adaptation stage, substituting the manual process by an electronic one will result in a more dynamic fiscal routine for companies. That will allow professionals to focus more on strategic issues, rather than being flooded with the manual process of filling in fiscal forms", she explains.

Ana Cláudia believes that Brazil is going through a breakthrough moment. "With the drastic increase in scandals involving fiscal corruption and evasion, and with the recognition that the culture of corruption is so deeply rooted in Brazilians' lives, what is being sought at the moment is change, transparency, an understanding that the effects of corruption, both by politicians and evaders, are disastrous for the country."

THE CONSOLIDATION OF CORPORATE GOVERNANCE

Overall, respondents said they partially or completely follow the Corporate Governance Best Practices Code of the IBGC (Brazilian Corporate Governance Institute), of which 89% said they follow all or at least half of the recommended practices. Marta Viegas, partner at TozziniFreire Advogados' Corporate practice, clarifies that the IBGC Code is of voluntary compliance and is used widely by several types of organizations, from publicly-traded to limited liability companies as well as other entities, such as cooperatives and third sector entities.

Among the concerns of those heard by the research, it is possible to highlight the complexity of the Brazilian business environment and the need to better understand the limits of administrators' responsibilities, as well as their need to define governance systems and more effective control mechanisms including internal controls, due-diligence, compliance and risk management.

Respondents also revealed that systems for rule enforcement (both regulatory and judiciary) are shy, despite being recognized as crucial and of increasing importance in this environment; they demanded attention be paid not only to factoids, but also to the essence of major governance deviations.

Faced with these concerns, Marta underlines that the challenge in the field of corporate governance is to put essence ahead of form, principles above anything else. She also stresses the need for human capital behind corporate governance structures, which guarantees the "tone of the top" and makes control mechanisms effective.



AN OPTIMISTIC LOOK AT THE HALF FULL GLASS

Approximately 36% of participants said they plan to take part in merger and acquisition operations. According to Marcela Waksman Ejnisman, partner at TozziniFreire Advogados' M&A practice, the data reflects the current economic and political crisis in Brazil.

"However, a more careful evaluation about the scenario could be the starting point for a great business deal," Marcela ponders.

For her, the approximately R\$ 150 billion in assets currently on sale in the market, many of them from companies involved in the Lava Jato scandal, must be looked at carefully by those who are considering expanding their presence and who have a long term vision. "On the other hand, the exchange rate favoring the dollar and the euro could be interesting for those who intend to buy." Marcela understands that the more active sectors in terms of mergers and acquisitions will be construction, hospitals and information technology.

THE BOOM OF ARBITRATION

The new Civil Process Code (Código de Processo Civil – CPC) and the new Mediation law, which will be effective starting 2016, together with the reform of local arbitration law, which is already effective, are bound to encourage the search for friendly dispute resolution methods in the next years, reveals the second edition of the research **TozziniFreire - Outlook for the Brazilian legal and economic environment.**

"During turbulent economic times, such as the one we are going through at the moment, conflicting parties tend to favor faster solutions for their litigation cases through arbitration, mediation or conciliation," explains Fernando Eduardo Serec, CEO of TozziniFreire Advogados.

According to Serec's evaluation, complex financial contracts, infrastructure and construction contracts will be the key users of arbitration in the next year. "The process should also gain even more space in corporate disputes and merger and acquisition cases.

THE TIME FOR FINANCIAL INSTRUMENTS WITH INCENTIVES AND FIDCS

Regarding the intention to look for resources in the capital markets in 2016, respondents said they will use instruments with incentives, such as infrastructure debentures, Real Estate (Certificados de Recebíveis Imobiliários – CRIs) or Agribusiness Receivable Certificates (CRAs) as well as Receivable-backed Funds (Fundo de Investimento em Direitos Creditório – FIDICs).

For Alexei Bonamin, partner at the Capital Markets practice of TozziniFreire Advogados, this indication given by companies is a good sign for the economy. "Companies are looking for ways to recover their financial stamina and get away from uncertainties."

KNOWING THE RULES TO AVOID RISKS

Training on antitrust legislation is on the radar for 70% of respondents, a number that is 74% higher compared to the first edition of the study. According to the evaluation of Marcelo Calliari, partner at the Competition practice of TozziniFreire Advogados, this growth is directly linked to the perception that investigations by the Brazilian Antitrust body (Conselho Administrativo de Defesa Econômica – Cade) will tend to be increasingly rigorous in 2016, and that punishment will be stricter and stricter.

"Training is crucial to guarantee the efficacy of compliance programs. It is important that this training includes all levels of the corporation, starting from the highest levels of the company, because each employee needs to understand and know how to mitigate risks in each sector", Calliari completes.



THE COMPLEXITIES OF THE LABOR ENVIRONMENT

Understanding the environment that regulates the Brazilian labor market is a difficult task for 97% of respondents. The complexity of laws, insecurity regarding the system and sudden changes in decisions, among other items, were some of the obstacles that were emphasized.

"The research result reflects companies' concerns with the legal (in) security created by decisions from the Labor Courts, which abruptly change understandings that have been consolidated for a long time. Of the several innovative theses, none of them benefits companies, which in the least suggests an exaggerated protectionism," indicates Marcelo Pereira Gômará and Mihoko Sirley Kimura, partners at Tozzini-Freire Advogados' Labor practice.

The economic model's sustainability depends on the "de-judicialization" of labor relations, with the implementation of new methods for conflict resolution and more weight given to the agreed legal value, both individually and collectively. For this last aspect, André André Fittipaldi, also a partner in the Labor practice, and Gômará emphasize that "it is unacceptable that a union should legally question the validity of an agreement that this same union negotiated and signed."

MORE HIGHLIGHTS

55%
of respondents intend to
invest more in sustainable
environmental practices.

Issues connected to
technology transfer should
grow **57%**
in 2016.

Over **60%** of those
interviewed said they
will pay more attention
to themes connected to
intellectual property.

TOZZINIFREIRE
ADVOGADOS

To receive the full study "TozziniFreire - Outlook for the Brazilian legal and economic environment in 2016", please contact ddnc@tozzinifreire.com.br.

CONTACTS

MERGERS AND ACQUISITIONS

- Darcy Teixeira Júnior
dteixeira@tozzinfreire.com.br
+55 11 5086- 5153

- Marcela Waksman Ejnisman
mejnisman@tozzinfreire.com.br
+55 11 5086-5471

- Mauro Guizeline
mguizeline@tozzinfreire.com.br
+ 55 11 5086-5346

- Maria Elisa Gualandi Verri
mverri@tozzinfreire.com.br
+ 55 11 5086-5167

CAPITAL MARKETS

- Alexei Bonamin
abonamin@tozzinfreire.com.br
+55 11 5086-5179

- Rodrigo de Campos Vieira
rvieira@tozzinfreire.com.br
+55 11 5086-5230

CORPORATE GOVERNANCE

- Marta Viegas
mviegas@tozzinfreire.com.br
+55 11 5086-5233

COMPLIANCE & INVESTIGATION

- Shin Jae Kim
skim@tozzinfreire.com.br
+55 11 5086-5276

TAX

- Ana Claudia Utumi
autumi@tozzinfreire.com.br
+55 11 5086-5352

- Vinicius Jucá
vjuca@tozzinfreire.com.br
+55 11 5086-5440

- Gustavo Nygaard
gnygaard@tozzinfreire.com.br
+ 51 3025-2225

LABOR

- Marcelo Gômara
mgomara@tozzinfreire.com.br
+55 11 5086-5209

- Mihoko Sirley Kimura
mkimura@tozzinfreire.com.br
+55 11 5086-5262

ENVIRONMENTAL LAW

- Adriana Mathias Baptista
abaptista@tozzinfreire.com.br
+55 11 5086-5268

INTELLECTUAL PROPERTY AND TECHNOLOGY TRANSFER

- Andreia de Andrade Gomes
angomes@tozzinfreire.com.br
+55 21 3535-2116

- Marcela Waksman Ejnisman

ARBITRATION

- Fernando Eduardo Serec
fserec@tozzinfreire.com.br
+55 11 5086-5264

- Antonio Marzagão Barbuto Neto
abarbuto@tozzinfreire.com.br
+55 11 5086-5245

- Giovanni Ettore Nanni
gnanni@tozzinfreire.com.br
+ 55 11 5086-5189

- Flavia Cristina M. de Campos Andrade
fandrade@tozzinfreire.com.br
+ 55 11 5086-5280

ANTITRUST

- Marcelo Calliari
mcalliari@tozzinfreire.com.br
+55 11 5086-5313

PRIVATE EQUITY

- João Busin
jbusin@tozzinfreire.com.br
+ 55 11 5086- 5593

LIFE SCIENCES & HEALTHCARE

- Elysangela de Oliveira Rabelo
erabelo@tozzinfreire.com.br
+ 55 11 508-5323

SÃO PAULO

Rua Borges Lagoa, 1328
São Paulo, SP - Brasil
CEP 04038-904
T +55 11 5086-5000
F +55 11 5086-5555

SÃO PAULO

Av. Paulista, 2421
8º andar
São Paulo, SP - Brasil
CEP 01311-300
T +55 11 3291-1000
F +55 11 3291-1111

RIO DE JANEIRO

Rua da Quitanda, 86
6º andar
Ed. Galeria - Centro
Rio de Janeiro, RJ - Brasil
CEP 20091-005
T +55 21 3535-2100
F +55 21 3535-2121

BRASÍLIA

Setor Comercial Norte
Quadra 2, Bloco A
Corporate Financial Center
6º andar, Conjunto 604
Brasília, DF - Brasil
CEP 70712-900
T +55 61 3426-8000
F +55 61 3426-8099

PORTO ALEGRE

Av. Carlos Gomes, 222
Ed. Opus One - 5º andar
Porto Alegre, RS - Brasil
CEP 90480-000
T +55 51 3025-2200
F +55 51 3025-2222

CAMPINAS

Av. Dr. José Bonifácio
Coutinho Nogueira, 150
8º andar
Campinas, SP - Brasil
CEP 13091-611
T +55 19 3207-3666
F +55 19 3207-4666

NEW YORK

150 East 58th Street
16th Floor
New York, NY - USA
ZIP 10155
T +1 212 698-1445
F +1 212 698-1144