TozziniFreire.

Doing **Business** *in Brazil*

2025

tozzinifreire.com.br

Quick guide for foreign investment

INDEX

*Please feel free to **click at the topic** of your interest*

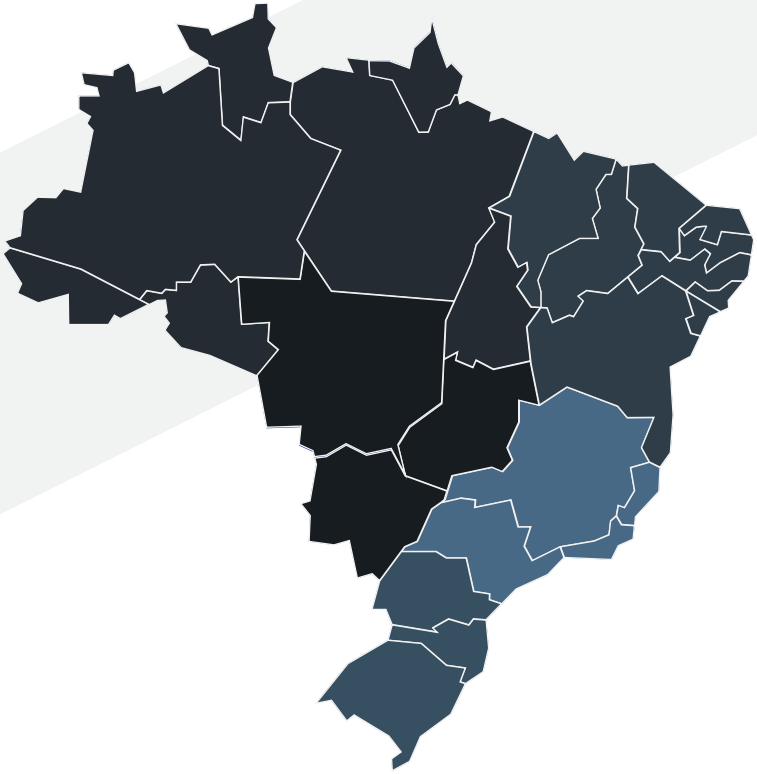
ABOUT THIS GUIDE

This guide aims to provide an overview of the Brazilian legal and investment framework. It addresses the main legal aspects, challenges, opportunities, and trends in foreign investments, meeting the needs of investors in different degrees of maturity when it comes to investing in Brazil.

This guide is divided into different chapters, which aim to discuss the main concerns of foreign investors, particularly those associated with the inflow and outflow of funds, investment models and vehicles, taxes and labor rules. It also addresses topics associated with specific forms of investments, including in the capital and financial markets, M&A transactions, and other relevant legal consequences, such as antitrust, compliance, disputes, and criminal. This material also draws attention to specific economic sectors that, directly or indirectly, are relevant for foreign investments, like insurance, real estate, international trade, and ESG aspects.

As with any other guide, it focuses on the general rules applicable to foreign investments. So, it is neither intended to exhaust the matters discussed here, nor represent a legal opinion on our end as to the Brazilian legal framework. Nonetheless, this guide is certainly capable of demonstrating specific characteristics of the Brazilian legal system, which should not be ignored by foreign investors.

BRAZIL IN A NUTSHELL



Brazil is the 5th largest country in the world, with an area of approximately 8.5 million square kilometers and a population of 212,6 million inhabitants, having one of the largest consumer markets in the world. Brazil has an open and diversified economy and a wide array of opportunities across multiple productive sectors. Consequently, Brazil is the largest recipient and preferred investment destination in Latin America. It offers a robust investment protection legislation, enforced by an independent judiciary and a stable regulatory environment.

Brazilian territory is divided into 5 different regions. Although the Southeast region, which represents more than 50% of the Brazilian GDP, is the main destination for foreign investments, all other regions have interesting business opportunities in different sectors.

The Brazilian economy is structured on a wide range of economic sectors. The country is home to a diversified industrial sector, including automotive, oil and gas, mining, capital goods, chemical and technology complexes, among others. Brazil is of one the largest agribusiness players, being among the top five exporters of agricultural products in the world.

BRAZIL

Size

(area in km²)

8.51 MILLION KM²

Brazil is the fifth largest country in the world, and third largest in the Americas, with a total area of 8,515,767.049 km2 (3,287,956 sq mi), including 55,455 km2 (21,411 sq mi) of water.

Population

(2024)

212,6 MILLION

The current population of Brazil is 212,6 million according to the Brazilian Institute of Geography and Statists (IBGE).

Regions

5

States: 26 + Federal District

Brazil's twenty-six states and the Federal District (Distrito Federal) are divided conventionally into 5 regions: North (Norte), Northeast (Nordeste), Southeast (Sudeste), South (Sul), and Center-West (Centro-Oeste). There are 5,568 municipalities, which have municipal governments.

GDP per capita

(2024)

US$ 9,944.28

According to IBGE's data, GDP per capita in Brazil reached BRL 55,247.45 (approx. US$ 9,944.28) in 2024, an increase of 3% compared to the previous year.

GDP

(USD trillion, 2024)

US$ 2,112

The Brazilian Gross Domestic Product (GDP) remained stable in the fourth quarter of 2023, adding up to BRL 11.7 trillion (approx. US$ 2,112 trillion).

GDP Growth

3.4%

According to the IBGE (Brazilian Institute of Geography and Statistics), the Brazilian economy closed the year 2023 with an accumulated growth of 3.4%.

Foreign Direct Investment

(USD billion, 2024)

US$ 71.1

In 2024, Brazil attracted an impressive amount of foreign direct investment, reaching US$ 71.1 billion. This amount is 13.8% higher than the US$ 62.442 billion received in 2023, consolidating Brazil as a leading destination for FDI globally.

Inflation Rate

4.83%

In 2024, Brazil's official inflation closed out at 4.83%, according to the statistics agency IBGE report.

Selic Rate

12.25%

COPOM (Monetary Policy Committee) of Brazil's Central Bank (BCB) ends 2024 with the Selic rate (country's benchmark interest rate) at 12.25% a year.

Foreign Exchange Rate

(USD/BRL)

6.192 USD/BRL

In 2024, the official rate of the end of period for the Brazilian national currency per USD data was reported at 6.192 USD/BRL. This records an increase from the previous number of 4.841 USD/BRL for 2023.

Bovespa Stock Exchange Index

120,283.40 POINTS

The Bovespa Index closed 2024 at 120,288.40 points.

Trade Balance

(USD billion, 2024)

US$ 74.6

According to the Brazilian Secretariat of Foreign Trade of the Ministry of Development, Industry, Commerce and Services, in 2024, the Brazil´s trade balance was a surplus of US$ 74.6 billion, the second largest in the historical series, behind only that recorded in 2023, which was US$ 98.9 billion.

Exports

(USD billion, 2024)

US$ 337.04

Brazil's total exports in 2024 were valued at US$ 337.04 billion, according to the United Nations Comtrade database on international trade. Brazil's main export partners were: China, the United States and Argentina. The top three export commodities were: "mineral fuels, oils, distillation products"; "oil seed, oleagic fruits, grain, seed, fruits"; and "ores slag and ash".

Imports

(USD billion, 2024)

US$ 277.55

As of the United Nations Comtrade database on inter-regional trade, Brazil's total imports in 2024 were valued at US$ 277.55 billion. The main import partners of Brazil were: China, the United States, and Germany. The top three import commodities were: "machinery, nuclear reactors, boilers"; "mineral fuels, oils, distillation products"; and "electrical, electronic equipments".

Unemployment Rate

(average 2024)

6.6%

According to the Continuous Brazilian National Household Sample Survey (Continuous PNAD), by IBGE, in 2024, the Brazilian annual unemployment rate decreased to 6.6%, which represents a 1.2 percentage points against the result of 2023 (7.8%). The downward trend in 2024 was followed by all the Brazilian Major Regions and by most (22) of the Federation Units.

Credit Stock

(% of GDP, 2024)

156.1%

As of the Central Bank of Brazil's report, in December 2024, the balance of credit extended to the non-financial sector stood at BRL 18.4 trillion (approx. USD 3.338 trillion) – 156.1% of GDP, with an expansion of 13.9% compared to December 2023. The highlights were the increases of the Brazilian National Financial System (SFN) loan balances, 10.5%; of public debt securities, 9.4%; and external loans, 26.2%.

FOREIGN INVESTMENT.

TozziniFreire.

INTRODUCTION

In December 2021, Brazilian Federal Government enacted Law No. 14,286/2021, which has consolidated and modernized foreign exchange rules, bringing with it the revocation of thirty-eight (38) norms and the origination of new regulations by the Central Bank of Brazil (BACEN) and the National Monetary Council (CMN). This is the main law that now regulates the Brazilian exchange market, also known as "Legal Framework for Foreign Exchange Market".

With the new foreign exchange regulations, the legal system presents several novelties and grants concessions, such as permission to pay leasing contracts with resources coming from abroad, equal treatment between accounts in reais (Brazilian currency) held by non-residents and residents, among others.

For the purposes of Brazilian regulations, "foreign capital" is defined as any amount, goods, rights or assets of any nature held in the national territory by non-residents. The BACEN also has the authority to determine that assets held abroad by non-residents in favor of local residents are also considered foreign capital in Brazil.

The Legal Framework for Foreign Exchange Market also brought significant changes in the operational aspects of the Brazilian foreign exchange market, which stand out: the simplification and rationalization of the process of classifying the purpose of foreign exchange transactions, the free form of the execution of foreign exchange transactions, the new premises for providing information on foreign capital in the country and its conditions for receiving/sending funds, the standardization of requirements for opening, maintaining and operating accounts in reais of non-residents with those of residents, updating of the foreign interest indicator.

As of the Legal Framework for Foreign Exchange Market, foreign exchange transactions began to be contracted more quickly, on a par with other financial transactions.

With the reduction of bureaucracy in foreign exchange contracts, Brazil aligns itself with the practices already carried out in the international market.

OVER**VIEW**

The Brazilian National Monetary Council (CMN) has the highest regulatory authority over foreign investments, but the foreign exchange policy is controlled and supervised by the Central Bank of Brazil (BACEN).

/MAIN REGULATION IN BRAZIL

The provision of foreign capital information to the BACEN is legally based on Law No. 14,286/2021. BACEN's Resolutions No. 278 to No. 281, of December 31, 2022, regulate Law No. 14,286/2021, in relation to foreign capital in the country, in foreign credit transactions and foreign direct investments, as well as the provision of information to the BACEN.

The BACEN has created and regulated a system for the declaratory electronic registration of foreign capital in Brazil, which must be registered electronically through the Registration System of the Information System of the Central Bank of Brazil (SISBACEN) in different modules depending on the type of investment.

There are essentially three forms of foreign investments in Brazil subject to registration:

- External loans or financing transactions;
- Direct equity investments, such as private purchase of shares of a non-public company located in Brazil; and/or
- Investments through over-the-counter markets and stock exchange, which could involve different types of registered securities and financial instruments, such as shares of publicly traded companies, investment funds, debentures (similar to bonds in foreign markets), derivatives and other equity or debt instruments.

Before making the investment, the non-resident foreign investor must register in the Declaratory Register of Non-Residents (CDNR).

/FOREIGN DIRECT INVESTMENT - SCE-IED

Brazilian companies may receive foreign direct investment, originating from individuals or legal entities not resident in Brazil. What characterizes a direct investment is its long-term intent and acquisition outside of organized over-the-counter markets and stock exchanges.

These investments must be reported to the BACEN under the Foreign Capital Reporting System – Foreign Direct Investment (SCE-IED) when one of the following actions occurs:

i. Non-resident investor-related financial transfer of an amount equal to or greater than US$ 100,000 or its equivalent in other currencies;

i. Movement of resources of an amount equal to or greater than US$ 100,000 or its equivalent in other currencies related to:

- Capitalization through tangible or intangible assets;
- Conversion into investment of rights remissible abroad not reported as external credit;
- Assignment, exchange, and conference of quotas or shares between resident and non-resident investors, or between non-resident investors;
- International conference of quotas or shares;
- Corporate reorganization;
- Distribution of profits and dividends, payment of interest on own capital, sale of participation, restitution of capital and net assets resulting from liquidation, when made directly abroad or in national currency in the country;
- Payments and receipts in national currency in accounts of non-residents; or
- Reinvestment.

iii. The recipient has total assets above the declaratory limits according to regularly provided periodic statements (quarterly, annual, and five-yearly).

/CREDIT TRANSACTIONS SCE-CRÉDITO

These are transactions such as external loans, issuance of securities, import financing, and early receipt of exports, when subject to the provision of information provided for in the regulation, including the renegotiation, assumption, and conversion of such operations.

All operations must be reported to the BACEN through the Foreign Capital Reporting System – External Credit (SCE-Crédito).

SCE-Crédito is intended for the registration of credit financial transactions executed between a non-resident and individuals or legal entities residing in Brazil – even if funding does not occur in the country.

Resolution BACEN No. 278/2022 sets forth the declaratory thresholds according to the type of external credit transaction and the legal nature of the debtor. For individual Debtor and Legal Entity of the private sector:

- Direct lending, issuance of bonds in the international market, issuance of private placement bonds in the domestic market and financing, including from international organizations, whenever the value of the external credit transaction is equal to or greater than US$ 1,000,000.00 (one million US dollars) or equivalent in other currencies;

- Financed import of goods or services with a payment term exceeding 180 (one hundred and eighty) days, whenever the value of the external credit transaction is equal to or greater than US$ 500,000.00 (five hundred thousand US Dollars) or equivalent in other currencies; and

- Advance receipt of export and external financial lease, with a payment term exceeding 360 (three hundred and sixty) days, whenever the value of the external credit transaction is equal to or greater than US$ 1,000,000.00 (one million US dollars) or equivalent in other currencies.

/FOREIGN INVESTMENT IN THE BRAZILIAN FINANCIAL AND CAPITAL MARKETS

These are foreign investments in the financial and capital markets, investment funds, and DRs (Depositary Receipts).

Joint Resolution No. 13/2024 took effect at the beginning of this year and introduced important measures to modernize and align with international practices for non-resident investments in the financial and capital markets.

The main change was the simplification of investments made through the non-resident account (CNR), while maintaining the requirement that non-resident legal entities appoint a representative in advance and register with the Brazilian Securities and Exchange Commission (CVM) for investments in securities.

Before transactions, the non-resident investor must:

i. constitute one or more representatives in the country that is a financial institution or institution authorized to operate by the BACEN;

ii. obtain registration with the Brazilian Securities and Exchange Commission (CVM).

BEAR **IN MIND**

Brazil requires that foreign investors, whether individuals or legal entities, be registered with a tax ID number provided by the Brazilian Federal Revenue Office (RFB). In the case of individuals, this tax ID number is called "Cadastro de Pessoa Física – CPF", and legal entities are registered with a "Cadastro Nacional de Pessoa Jurídica – CNPJ". In both cases, the legal investor must appoint a person residing in Brazil to be its legal representative.

The legal representative will be responsible and liable, among other duties, for the withholding and payment of income tax levied on the capital gains earned by a foreign-based individual or legal entity with the sale of assets or rights located in Brazil.

It is important to note that the legal representative must be domiciled in Brazil, and be a native or naturalized Brazilian, or an alien with a permanent visa in Brazil, in addition to have a fixed residence in Brazil, as he or she will have legal and tax responsibilities before the Brazilian authorities.

SETTING UP A COMPANY IN BRAZIL.

TozziniFreire.

INTRODUCTION

Brazilian laws provide for several types of company forms, of which the Limited Liability Companies (Limitada or Ltda.) and the Corporations (Sociedade Anônima or S.A.) are most used. The details of these company forms are explored below. Other company forms have enjoyed virtually no acceptance in practice, especially because they generally provide for unlimited liability of their partners.

The election of the company type most suited to the proposed activities should take into account the desired ownership structure, legal flexibility, cost, financing alternatives and sophistication of legal mechanisms, among other factors, as specific circumstances may warrant. For tax purposes, Brazilian tax legislation generally gives the same treatment to different company forms; however, the home tax jurisdiction of investors may treat the Brazilian company's profits and losses differently depending on the company type.

/BRAZILIAN SUBSIDIARY

- Foreign investors often establish a direct local presence through a Brazilian subsidiary, which provides them direct control over activities, management, and personnel.

- Foreign investors may choose to establish a Brazilian subsidiary alone, rather than enter a joint venture with or acquire an existing local company, to avoid debt succession and other liability concerns associate with such transactions.

OVER**VIEW**

/BRAZILIAN LIMITED LIABILITY COMPANY (LIMITADA OR LTDA.)

- Brazilian most common corporate type.
- Governed by the Brazilian Civil Code (Law No. 10,406/2002) and the company's articles of association (contrato social).
- May be incorporated by a sole quotaholder.
- Lower level of formality regarding its incorporation and governance aspects.
- Share capital divided into quotas (with equal or unequal economic rights).
- No minimum amount of capital required.
- Dividend payment may be proportional or not proportional to the equity interest held by the quotaholders.
- Brazilian limited liability companies may not issue securities (bonds, debentures, commercial papers etc.).
- No access to the capital markets.

/BRAZILIAN CORPORATIONS (SOCIEDADE ANÔNIMA OR S.A.)

- Governed by Law No. 6,404/1976 and the company's bylaws (estatuto social).
- Minimum of 2 (two) shareholders required (except in case of wholly owned subsidiary).
- Higher level of formality regarding its incorporation and governance aspects.
- Governance bodies: Board of Officers (mandatory) and Board of Directors (mandatory for listed companies only).
- Share capital divided into shares (common or preferred shares, which may be divided into different classes).
- No minimum amount of capital required.
- Dividend payment must be proportional to the equity interest held by the shareholders.
- Brazilian corporations may issue securities (bonds, debentures, commercial papers etc.) and may have access to the capital markets.
- Financial statements must be published in a major newspaper and on the newspaper's website – or, in a few cases, the law permits publications to be electronically.

BEAR **IN MIND**

To set up a company in Brazil, you must have:

Address

- The articles of association or the bylaws, as the case may be, need to indicate the address where the activities of the company will be carried out.

- For companies that are not engaged in the commercialization of goods, it is possible to adopt a virtual office/address.

Activities

- The corporate purpose must inform details of the activities that will be carried out by the company.

- Depending on the activities that will be carried out by the company, certain licenses or authorizations may be required.

Legal Representation

- All non-resident quotaholders/shareholders of Brazilian entities must grant corporate power of attorney and IRS (Internal Revenue Service) power of attorney to an individual resident in Brazil for purposes of the required legal representation.

- The attorney-in-fact resident in Brazil will be the legal representative of the foreign entity in its capacity as **quotaholder/shareholder** of the Brazilian company, with powers to receive summons, apart from representation before the Brazilian IRS.

Management

- All Brazilian entities must appoint at least one individual (resident in Brazil or not) to act as **manager** of the company. In case of a non-resident manager, such manager shall grant a power of attorney to a resident in Brazil. Please note that the possibility of having a non-resident as a member of the management of Brazilian companies is new in Brazil.

- In practical terms, as it is a new rule, we are having some difficulties in indicating non-residents as legal representatives of the Brazilian companies. At this stage, we advise the appointment **of at least one Brazilian resident** as a manager.

Annual Approval of Accounts

- The quotaholders/shareholders of every Brazilian company must hold an annual meeting within the four (4) months after the end of each corporate year in order to (i) review the management accounts and the company's financial statements; (ii) appoint officers, if the case may be; and (iii) decide on any other matters of the quotaholders/shareholders' interest.

Ultimate Beneficial Owner (UBO)

- Foreign legal entities investors and Brazilian companies (all companies that hold a CNPJ – National Registry of Legal Entities) have a **30-day deadline**, after its registration, to inform their Ultimate Beneficial Owner (UBO) to the Brazilian IRS.

- UBO means a directly or indirectly individual that owns, controls, or significantly influences the entity. For these purposes, significant influence is presumed when the individual holds directly or indirectly over 25% of the entity's capital.

Foreign Capital Registration before the Central Bank (BACEN)

- All foreign direct investment in Brazilian companies must be registered before the Central Bank of Brazil (BACEN) through the RDE-IED system within 30 days of the capital inflow or corporate event.

- This registration enables the legal remittance of profits, repatriation of capital, and ensures compliance with Brazilian foreign exchange regulations.

PRELIMINARY FORMS OF INVESTMENT.

TozziniFreire.

INTRODUCTION

Sales Representation and Distribution are the most common and simplest manners for a foreign investor to invest and have activities in Brazil, as it does not need to have its own physical location in Brazil, using third parties to locally sell the products.

Notwithstanding, foreign investor may take some measures to (i) ensure a certain control on how its product is traded in Brazil, (ii) protect its trademark and related intellectual property rights, and (iii) ensure certain protection in case of future activities.

When hiring distributors or sales representatives, the foreign investor should consider that it might want to establish and/or increase its local presence in the future. Thus, it should avoid granting exclusivity rights in relation to its products in Brazil to the sales representative or the distributor.

SALES REPRESENTATION AND DISTRIBUTION

- Cost savings, among other factors, usually motivate the election of distribution and sales representation activities as means to survey and participate in the Brazilian market without establishing a direct local presence.

- These contracts are also used by foreign investors with a direct local presence, for economic and logistic reasons.

OVERVIEW

	SALES REPRESENTATION	DISTRIBUTION
Applicable Law	• Law No. 4,886, of December 9, 1965 (Sales Representatives Act); • Law No. 12,246, of May 27, 2010; • Brazilian Civil Code.	• Law No. 6,729, of November 28, 1979 (applicable to distribution of land vehicle); • Brazilian Civil Code.
Purpose	Sale of Goods through intermediaries (sales representative).	Connect or intermediate manufacturers and its clients.
How to Formalize	Agreements entered into between the foreign investor (manufacturer) and the sales representative for a certain period of time – cannot be for a specific sale.	Agreements entered into between the foreign investor (manufacturer) and the distributor, by means of which distributor acquires the products to resell them.
Need to Register Trademark with the INPI	Yes	Yes
Responsible Party before Third Parties Representing the Goods	CIF product value	0% to 35%
Payment	Commissions based on the total amount of the sales effectively made by the sales representative.	Profit arising from the reselling of products.
Exclusivity	To be defined in the Agreement – lack of specific provision shall be deemed as exclusivity for both parties.	Foreign investors should negotiate the exclusion of exclusivity rights to the extent possible.
Registration before Public Authorities	The sales representative should be registered before the competent Regional Sales Representatives Council (CORE).	Not necessary for the distribution activity. On a case-by-case basis, certain products may require specific registration.

CAPITAL MARKETS.

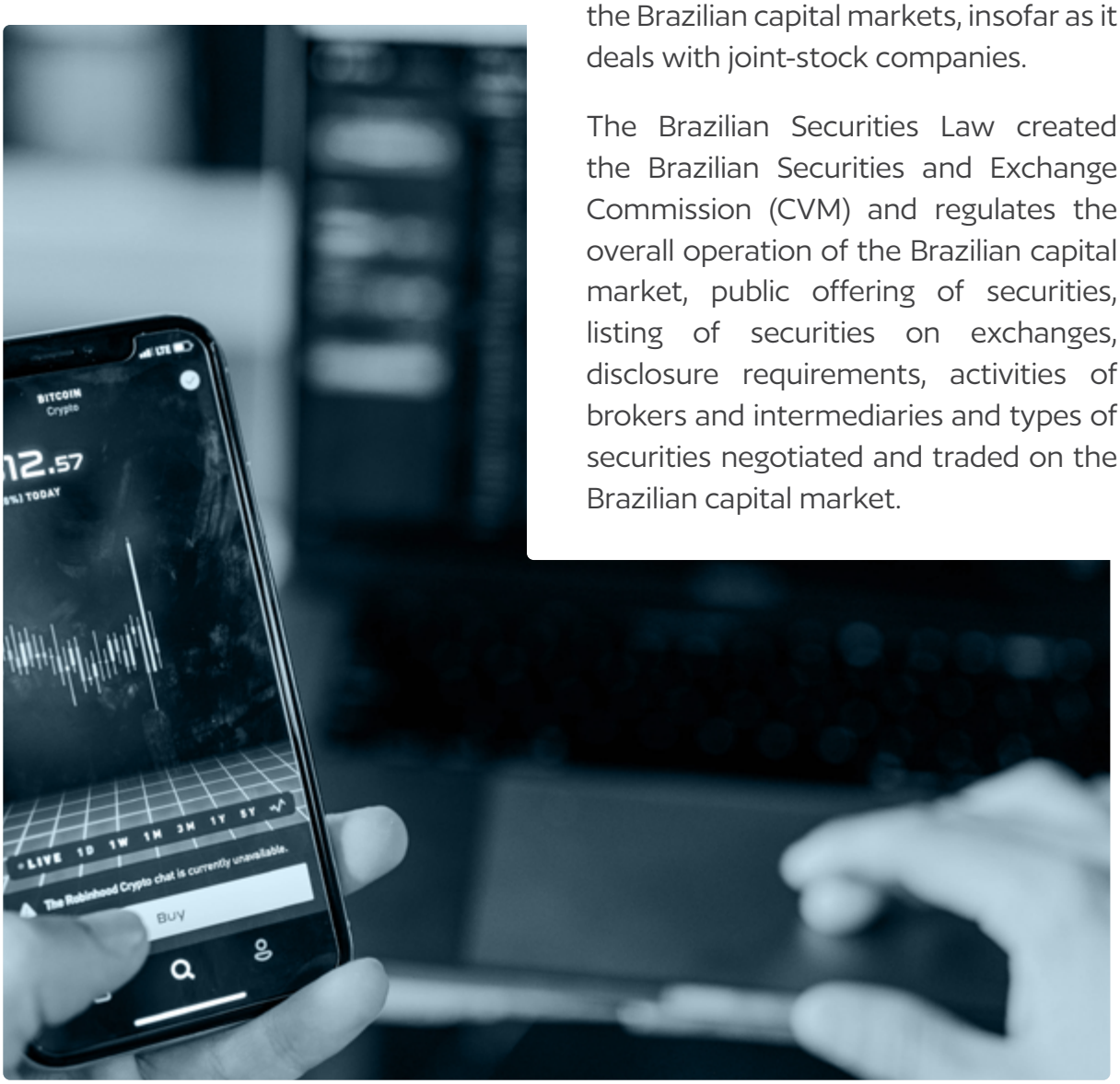
TozziniFreire.

INTRODUCTION

The key laws dealing with capital markets in Brazil are Law No. 4,728, dated as of July 14, 1965, as amended, which disciplines the capital markets and establishes measures for its development, and Law No. 6,385, dated as of December 7, 1976, as amended (or Brazilian Securities Law).

In addition, Law No. 6,404, dated December 15, 1976, as amended (or the Brazilian Corporation Law), contains relevant provisions for the regulating of the Brazilian capital markets, insofar as it deals with joint-stock companies.

The Brazilian Securities Law created the Brazilian Securities and Exchange Commission (CVM) and regulates the overall operation of the Brazilian capital market, public offering of securities, listing of securities on exchanges, disclosure requirements, activities of brokers and intermediaries and types of securities negotiated and traded on the Brazilian capital market.



OVER**VIEW**

/REGULATION

CVM

The Brazilian Securities and Exchange Commission (CVM) is a governmental agency that is bound to the Brazilian National Monetary Council and is one of the regulatory and supervisory authorities of the Brazil's capital market.

The CVM is managed by a board composed of a president and four officers who are appointed for a five-year term by the President of Brazil and approved by the Brazilian Senate. Each member of the board must have a flawless reputation and recognized expertise in the securities market. Re-election is not permitted and one fifth of the board must be replaced every year.

The CVM is responsible for regulating and supervising the Brazilian capital market and their participants in order to: (1) promote the expansion and the efficient and proper functioning of the Brazilian capital market; (2) protect security holders and investors against the irregular issues of securities, illegal actions of publicly-held company directors, officers and controlling shareholders, as well as use of material information not yet disclosed to the market; (3) avoid or inhibit any kind of fraud or manipulation that may give rise to artificial demand, offer or price formation in the Brazilian capital market; and (4) ensure public access to material and useful information concerning the securities being traded and their issuers etc.

The CVM is also incumbent to granting and administering publicly-held companies and public offering registrations under the Brazilian capital market.

The CVM also has police powers over all participants in the Brazilian capital market. These participants include brokers, dealers, financial institutions, stock exchanges, organized over-the-counter (OTC) markets, publicly-held companies, investment fund portfolios and custodians, independent auditors, consultants, and market analysts

The CVM may take actions and impose administrative sanctions on any person or entity that fails to comply with the Securities Law, the Brazilian Corporation Law and other regulations that the CVM is responsible for enforcing.

The primary sanctions that the CVM may impose include: (1) issuance of warnings; (2) pecuniary penalties; (3) suspension of the registration or authorization to participate in the Brazilian capital market; (4) temporary prohibition from participating in the Brazilian capital market; and (5) suspension and removal of directors and officers of breaching companies, including companies participating in the Brazilian securities distribution system. In addition, a party in breach of Brazilian securities regulations is also subject to civil and criminal liabilities.

The CVM interacts with its counterparts around the world in several ways. It is a member of the Council of Securities Regulators of the Americas, and the International Organization of Securities Commissioners.

/ DEBT CAPITAL MARKETS

DEBENTURES

Debentures are debt securities and are used in Brazil just as bonds are in international capital markets. Debentures are established by the Brazilian Corporation Law, and their issue is exclusive to joint stock companies. In addition to the Brazilian Corporation Law, deeds of issuance and receipts representing debentures determine the rights, fixed or variable interest, participation in the company's profits, premiums etc., to which debentures entitle their holders.

One important feature of debentures is their flexibility, as they may be tailored to better fit a certain transaction. As such, Brazilian capital markets laws and regulations permit the issue of debentures through one or more series, the option of their convertibility into shares of the issuer's capital stock, the creation of different types of guarantee and the selection of a convenient form of remuneration, and a maturity term vis-à-vis each issuer's needs.

A company may issue debentures more than once and each issue may be divided into a series. The general shareholders' meeting is primarily incumbent to issuing debentures; however, in publicly-held companies, the board of directors may decide on the sole issue of non-convertible debentures that are not secured by *in rem* guarantees.

Debentures may be placed either privately or publicly. The public offering of debentures must be previously registered with the CVM and, therefore, are subject to a greater number of requirements from the Brazilian capital markets laws and regulations. Additionally, public offerings must be distributed by financial institutions authorized as such by the Brazil's Central Bank (BACEN) and the CVM.

SECURITIZATION

Securitization can be understood as the process that financial disintermediation takes place, in which specific and determined assets are segregated from the originator's assets and linked to a specific purpose vehicle that will subsequently issue securities on the capital market.

Securitization in Brazil is regulated by Law No. 14,430, of August 3, 2022, which provides for the general rules applicable to the securitization of credit rights and the issuance of Receivables Certificates, and CVM Resolution No. 60, of December 23, 2021, which provides for credit rights securitization companies registered with the CVM.

Thus, these structured operations use credits from an originator to back the receivables certificates to be issued by the securitizer. Currently, it is possible to securitize any type of credit (as long as it is not prohibited by law). If the credits to be acquired by the securitizer are classified as agribusiness or real estate credits, the receivables certificates will have tax incentives that benefit investors, as a way of developing these sectors in Brazil.

/INVESTMENT FUNDS

Investment funds are a collection of assets jointly owned by investors whose goals will depend on the type of investment funds chosen. The investment funds are not constituted as an independent legal entity, and the quota holders will always be liable for the debts and obligations of the investment fund unless the portfolio manager or the administrator is held liable for fraud, negligence or willful misconduct. The responsibility of the quota holders is limited to the amount of capital they have subscribed to the fund.

In this sense, from the investor's perspective, by subscribing capital to a fund, they are acquiring a "quota", which represents their rights over the fund's portfolio in proportion to the number of quotas they have subscribed. Therefore, the investor will always have rights over all fund's assets in proportion to the number of quotas they hold.

Even though investment funds are not considered independent entities or companies in themselves, they are liable to taxation. In this regard, investment funds are generally able to sue and to be sued.

The main document of any investment fund is its bylaws, which regulate the management of the assets, the investment policies and all rights acquired and owned by its quota holders.

Investment funds are mainly regulated by Law No. 10,406, dated January 10, 2002 (Brazilian Civil Code) and CVM Rule No. 175, dated as of December 23, 2022 (CVM Rule 175), which provides for the constitution, operation and disclosure of information on investment funds among other things.

/EQUITY CAPITAL MARKETS

Equity is related to a right of ownership over a company, whether it is publicly or privately held. In the case of publicly traded companies, the shares traded on the stock exchange give the holder this right.

Investors can make a return by selling their shares in a particular company for more than they initially invested or by receiving income, which can be paid out in different ways – dividends, interest on equity, bonuses, and so on. It is considered a variable income investment, as there is no way of predicting a company's future performance.

Besides the Brazilian financial sector regulatory structure, there are also self-regulatory authorities that contribute to a stable and more confident environment for trading activities in the capital markets, which are:

- B3 stock exchange, the main equity and over-the-counter market in Brazil.
- BSM Market Supervision, in charge of supervising the transactions carried out on the B3 stock exchange and ensuring their compliance with all applicable laws and regulations (for more information, click here.
- ANBIMA, which oversees the capital markets intermediaries' financial and ancillary institutions and regulates its associates, as well as their products, activities and best practices.

EQUITY – VENTURE CAPITAL, PRIVATE EQUITY, AND CROWDFUNDING

The best-known ways of investing in equity are the IPO and the follow-on. Both offers are regulated by the CVM.

We can also divide equity in Brazil into three types: Venture Capital, Private Equity and Crowdfund.

Venture Capital is investment focused on new startups and emerging companies, provided by venture capitalists. This type of investment can take place through a variety of financial instruments that make it possible to invest in companies.

Private equity consists of investing in companies that are not listed on the stock exchange. Usually, private equity firms take control of a private or public company. The focus is on boosting and increasing the proportion of the company invested in. The private equity firm adds value by injecting money, restructuring debts, providing more resources, and talent. It can also take place through a variety of financial instruments that make it possible to invest in companies.

Crowdfunding is a collective financing model. It works as a kind of virtual "crowdfunding" for the idealization of projects. The structures have become increasingly common in which companies, in order to raise funds, use internet platforms to present an idea, project or business as an investment opportunity to potential "contributors", offering, in exchange for the funds contributed, equity securities (equity crowdfunding) or securities in general (investment-based crowdfunding). This modality is regulated by CVM Resolution No. 88, of June 28, 2022.

FINANCIAL MARKETS.

TozziniFreire.

INTRODUCTION

The main legislation governing the regulation and supervision of banks and other financial institutions is Law No. 4,595/1964, which sets out the legal framework for the financial system and establishes the National Monetary Council (CMN) as the authority in charge of establishing monetary and credit policies and the Central Bank of Brazil (BACEN) as the authority in charge of supervising financial institutions.

Payment activities are also regulated by the CMN and the BACEN within the scope of the Brazilian Payment System (SPB). They have created an entire regulatory framework allowing non-financial institutions to offer payment services through instruments used in Brazil specifically for this purpose, such as credit cards, electronic currency and other electronic means of payment.

OVERVIEW

/ REGULATION

FINANCIAL INSTITUTIONS - AUTHORIZATION REQUIREMENTS

Brazilian financial institutions can operate under many forms, all of which are regulated by different rules issued by the BACEN and the CMN. The main types of institutions that are engaged in the financial market are:

- multiple-services banks;
- commercial banks;
- investment banks;
- development banks, such as the Brazilian Development Bank (BNDES);
- foreign exchange banks;
- credit, financing and investment companies; and
- other types of financial institutions and equivalent entities, such as co-operative banks, credit co-operatives, commercial lease companies, securities brokerage companies, securities distributor companies, exchange brokerage companies, real estate credit companies, mortgage companies, and development fostering organizations.

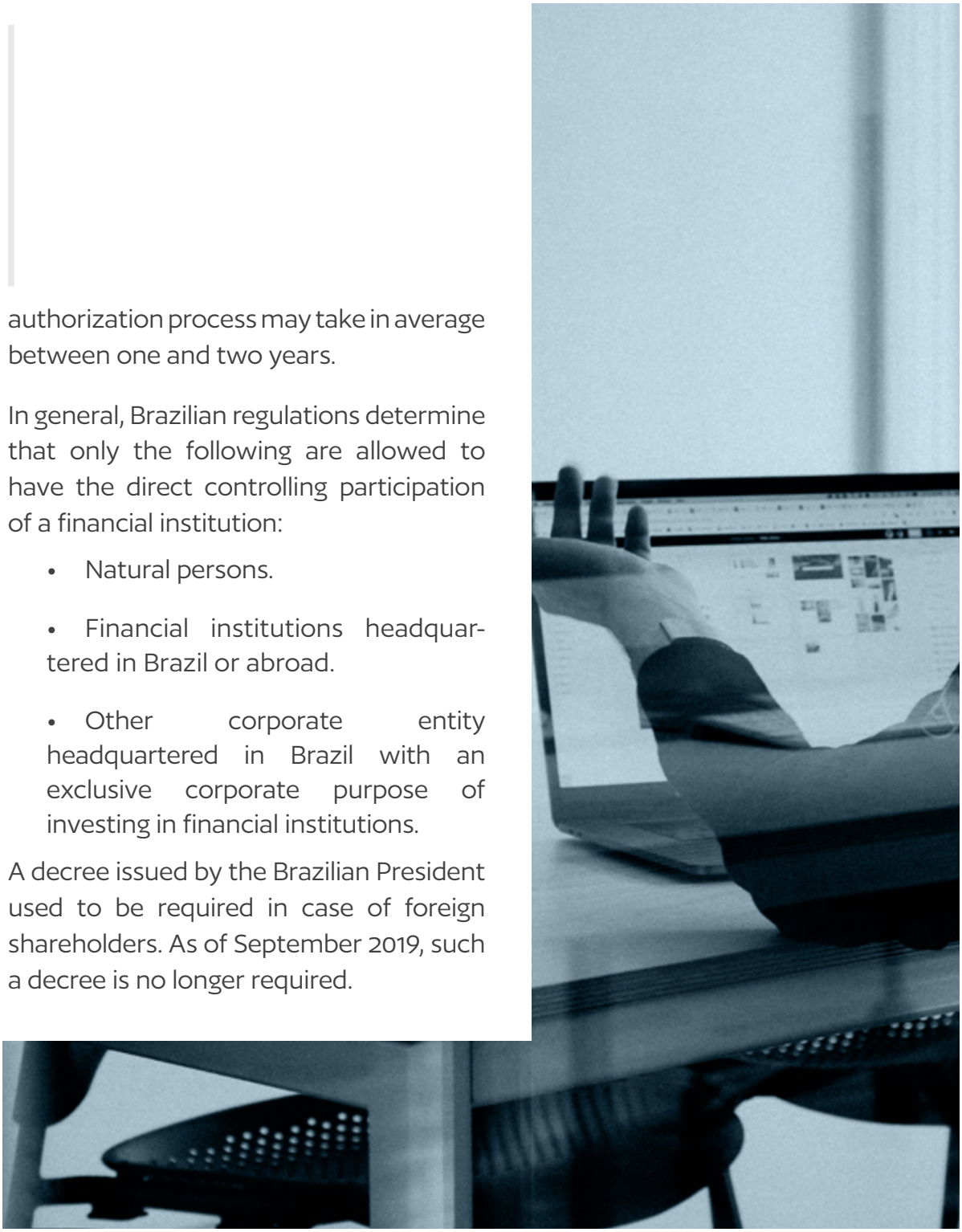
All financial institutions are subject to prior authorization from the BACEN to operate in Brazil. The process for obtaining a license requires several documents, proof of origin of the resources to be used by the institution and eventually a technical interview between the BACEN and the members of the control group. The entire

authorization process may take in average between one and two years.

In general, Brazilian regulations determine that only the following are allowed to have the direct controlling participation of a financial institution:

- Natural persons.
- Financial institutions headquartered in Brazil or abroad.
- Other corporate entity headquartered in Brazil with an exclusive corporate purpose of investing in financial institutions.

A decree issued by the Brazilian President used to be required in case of foreign shareholders. As of September 2019, such a decree is no longer required.



/PAYMENT INSTITUTIONS

CATEGORIES OF PAYMENT INSTITUTIONS

Payment Institutions are classified as follows:

Electronic money issuer: the payment institution that manages end-users' prepaid payment accounts and provides payment transactions using the electronic money held on such account, convert such resources to fiat currency or vice-versa.

Post-paid payment instrument issuer: the payment institution that manages post-paid end-users' payment accounts and provides payment transactions through such accounts.

Acquirer: payment institution that, without managing payment accounts:

- enables receivers for the acceptance of payment instruments issued by a payment institution or a financial institution participant of the same payment scheme; and
- participates in the settlement process of the payment transactions as creditor before the issuer, according to the rules of the payment scheme.

Payment initiatior: payment institution that renders services related to the initiation of a payment transaction and:

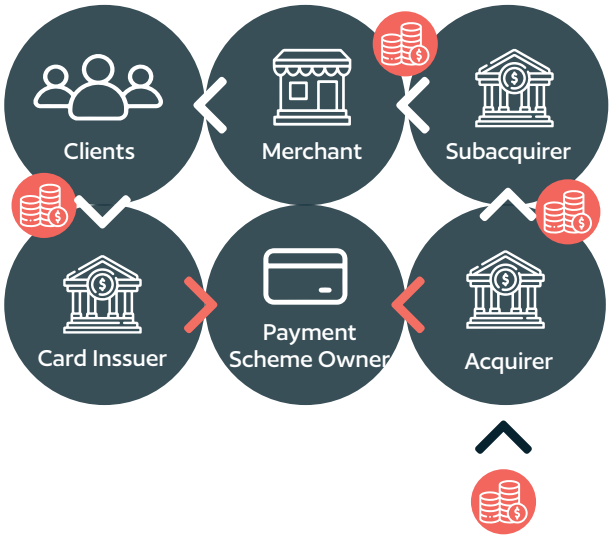
- it does not manage a payment account;
- it does not hold the transferred funds at any moment when rendering the services.

/PAYMENT SCHEMES

WHAT IS IT?

Collection of rules and procedures that regulates the payment services. It is regulated by the Resolution BACEN No. 150/2021. Some payment schemes are not considered part of the SPB and therefore do not need authorization from the BACEN to operate depending on certain criteria (including those defined as of "limited scope").

Payment Scheme Owner: creates and organizes the payment scheme and the use of the associated brand.



/FINTECHS

The term "fintech" is not a legal concept established in Brazilian laws or regulations, despite the BACEN informally designates two new types of credit entities created in 2018 as "credit fintechs", called Direct Credit Companies (Sociedades de Crédito Direto – SCD) and Interpersonal Credit Companies (Sociedades de Empréstimo entre Pessoas – SEP). These are financial institutions with limited scope that may operate in the credit segment with less strict regulatory requirements compared to more traditional financial institutions.

Fintechs may be subject to different regulations depending on the business model and targeted market.

The Brazilian fintech market has grown significantly in the past in different verticals, including credit, payment, financial management, loan, investment, financing, insurance, debt negotiation, foreign exchange, and multiservices. This is highly due to regulators' positive and supportive stance towards the development of tech-based financial enterprises, with different actions taken to modernize regulations to foster competition. Promoting innovation-driven economy is one of the main goals from regulators for the near future.

/CRYPTO ASSETS

In June 2023, Law No. 14,478, of December 21, 2022, came into force, which provides guidelines on the provision of virtual asset services, being considered as the "legal framework of crypto assets" in Brazil and an important first step towards regulating the Brazilian virtual assets market.

The law determined that the BACEN is responsible for regulating the provision of virtual asset services, as well as authorizing and supervising operators in the sector, except when the asset is framed as a security. In this case, the Brazilian Securities and Exchange Commission (CVM) will be in charge of that, and the virtual assets must observe the rules applicable to securities and capital markets in general, including requirements for registered public offerings.

The BACEN is expected to issue regulations that regulate the sector. For the edition of these regulations, it is expected that public consultations will be held by BACEN and CVM to gather manifestations from all market agents.

On the other hand, the CVM has enacted recent circular letters with its understandings on the characterization of a token as security, including fixed-income tokens, providing guidelines that must be observed by the market when considering the issuance and offering of tokens.

TAX.

TozziniFreire.

INTRODUCTION

The Brazilian Constitution not only attributes taxing authority to the Federal, State, and Municipal Governments but also imposes limits on them (e.g., time limits, necessity of law for imposing taxes).

The Brazil's National Tax Code and supplementary legislation provide the definition of taxes and detail their limits, whilst the ordinary legislation enacted by the Federal, State, Municipal governments as well as by the Federal District effectively imposes taxes.

The Brazilian Internal Revenue Service (Receita Federal do Brasil) manages the federal tax system, including social security contributions. States and municipalities have similar governmental collecting agencies.

The tax system in Brazil comprises different categories of taxes such as: (i) taxes on income and revenues, (ii) taxes on production and circulation of goods, and on services (indirect taxes), (iii) wealth and property taxes, and (iv) other taxes, including cross-border taxes and tax on financial transactions.

OVERVIEW

/TAXES ON INCOME AND REVENUE

INCOME TAXES (IRPJ/CSLL)

IRPJ and CSLL are federal taxes levied on the taxable income defined by the legislation. Although their bases are similar, there are some specific differences. Companies resident in Brazil are subject to the IRPJ and CSLL on a worldwide basis.

In the beginning of every fiscal year, companies may elect to calculate taxable income under either the actual-profit method (known as "lucro real") or the presumed-profit method (known as "lucro presumido"). Certain companies (e.g. with gross revenues exceeding R$ 78 million (approx. USD 15 million) in the previous year) are required to adopt the actual-profit method.

It is important to highlight that in both methods, the IRPJ and CSLL rates are the same. The IRPJ is currently levied at a 15% rate and a surtax of 10% is applicable on taxable income exceeding R$ 240,000 (Reais – Brazilian currency) per year. CSLL is usually imposed at a 9% rate on taxable income, but such rate can be increased up to 20% to financial institutions.

Under the actual-profit method, Brazilian companies determine taxable income by effectively subtracting all allowed deductions (e.g. ordinary and necessary expenses) from gross income and making other relevant adjustments. Tax losses may be carried-forward without any time restrictions, however such losses may only offset up to thirty percent (30%) of the profits obtained per year.

Taxable basis under actual-profit method is primarily calculated based on Brazilian generally accepted accounting

principles, which were adjusted in 2007 to conform to International Financial Reporting Standards (IFRS). This means that revenues and costs/expenses are recognized for both accounting and tax purposes on an accrual basis (unless recognition on a cash basis is authorized by tax regulations in some cases).

In turn, the legislation governing the presumed profit method simply assumes that a certain percentage of the gross revenues of the company duly reflects its profits and, therefore, uses such percentage, added by the non-operational income, as the tax basis of IRPJ/CSLL (i.e., expenses are disregarded).

The law establishes said percentage that varies depending on the activity conducted by the company. A percentage of 8% for IRPJ and 12% for CSLL should be applied over gross revenues deriving from the sale of goods (including medicine). Thus, the IRPJ and CSLL effective rate over gross revenues would be of 2% and 1.08%, respectively. In contrast, services in general are subject to a presumed profit percentage of 32% for both IRPJ and CSLL, leading to IRPJ/CSLL effective rate of 10.88% over revenues.

SOCIAL CONTRIBUTIONS ON GROSS REVENUES (PIS/COFINS)

PIS and COFINS are federal taxes levied on gross receipts of companies. PIS and COFINS are imposed under two systems: non-recoverable ("cumulative") and recoverable ("non-cumulative"). The law lists which companies are subject to each regime.

As a general rule, companies that determine their taxable income under the actual-profit method are subject to the recoverable (non-cumulative) PIS and COFINS whereas those that elect the presumed-profit method are under the non-recoverable (cumulative) systematic. There are special cases in which companies may be subject to both regimes.

When PIS/COFINS is calculated under the cumulative regime, those taxes are calculated based on total revenues accrued by legal entities on the sale of products and services, at an aggregate rate of 3.65%. No discounts or credits can be recognized. Extraordinary revenues, including financial revenues and income from the sale of non-current assets, are PIS/COFINS exempt.

Under the non-cumulative regime, PIS/COFINS nominal rate is 9.25%, but legal entities are entitled to recognize credits on certain costs and expenses incurred for the performance of their activities. The list of creditable expenses includes lease expenses, inputs to produce goods and services, depreciation expenses, energy expenses and intangible amortization expenses.

The non-cumulative system applied to PIS/COFINS is not equivalent to a pure value-added methodology. While gross revenues derived by a legal entity are taxed indistinctly (regardless of their nature), not all costs and expenses will generate PIS/COFINS credits. In fact, only those costs and expenses expressly listed in tax regulations will be creditable against taxable revenues.

As a rule, non-operating revenues, including revenues from the sale of non-current assets, are not subject to PIS/COFINS under the non-cumulative regime. However, in this regime PIS/COFINS applies over financial revenues at a special rate of 4.65%.

As an exception, companies engaged in certain industries are required to pay PIS/COFINS through a third methodology known as "Single Phase" ("Monofásico"), whereby the legislation defines one taxpayer (usually the manufacturer/importer) to pay PIS/COFINS on behalf of the whole commercial chain. Please note that the PIS/COFINS rate may vary depending on the nature of the products.

Export transactions are fully exempt from PIS/COFINS regardless of the tax regime.

/INDIRECT TAXES (TAXES ON GOODS AND SERVICES)

STATE VAT (ICMS)

ICMS is the main State tax and is imposed on transactions that imply the legal transfer of goods and on interstate and intermunicipal transport services as well as on communications services. ICMS is also levied on imports, but export transactions are exempt.

ICMS is a value-added tax, which allows the taxpayer to book tax credits from the ICMS paid on the purchase of raw materials, intermediate products, packaging materials, and goods to be resold.

ICMS rates vary depending on the State, and the nature of the goods or services. In the State of São Paulo, the general ICMS rate is 18%, but different rates and exemptions may apply depending on the product. Interstate sales are subject to different rates, which may vary from 4% to 12%. The ICMS basis includes not only the sales price, but also the ICMS itself.

Depending on the goods sold, ICMS may be levied at once at the first stage of the commercial chain, and, accordingly, the industrial pays not only the ICMS triggered on this stage, but also the ICMS due at the wholesaler and retailer stages. This regime is known as tax substitution regime (substituição tributária or ICMS-ST).

EXCISE TAX (IPI)

IPI is a Federal value-added tax imposed on each phase of the manufacturing process and on imports. Its rates vary depending on the importance of the manufactured goods. The fiscal classification of the goods defines the applicable IPI rate. The IPI basis is the price of the manufactured goods.

For IPI purposes, an industrial activity means any operation that modifies the nature, operation, finishing, presentation or purpose of a product, or which improves a product for consumption, such as its conversion, processing, packaging, repackaging, or restoration. The first sale of an imported product is considered a taxable event of IPI as well. Exports are IPI exempt.

TAX ON SERVICES (ISS)

ISS is a Municipal tax imposed on the rendering of services of any nature and on imports of services. Rates may vary from 2% to 5% depending on the municipality and the nature of the service. The ISS taxable basis is the price of the service. Export transactions are ISS exempt.

/OTHER RELEVANT TAXES

WITHHOLDING TAX ON CROSS-BORDER TRANSACTIONS (IRRF)

Any form of compensation (including, for instance, interest, royalties, payment of services, among others) paid by a Brazilian source to a beneficiary resident abroad is subject to the withholding income tax (WHT), in general, at the rate of 15% or at a 25% rate if the beneficiary is located in a low tax jurisdiction (LTJ).

While dividends paid out by Brazilian companies are currently exempt from the WHT, capital gains recognized by non-residents as a result of the disposition of any Brazilian-based assets, including equity interest and real estate, to resident or non-resident purchasers are subject to WHT at progressive rates that vary from 15% to 22.5%, depending on the amount of gain. For residents of LTJ, the applicable WHT rate is 25%.

WHT and capital gain rates may be reduced by the application of double tax treaties (DTT). Older DTTs may contain not only alternatives to mitigate double taxation, but also tax incentives in the form of presumed tax credits. Click here to check out the list of countries with which Brazil has a DTT in place.

TAX ON FINANCIAL TRANSACTIONS (IOF)

Financial transactions are subject to the Federal Tax on Credit, Foreign Currency Exchange, Bonds and Securities Transactions and on Insurance Operations (IOF).

IOF rates may be altered at any time by the Brazilian government, without Congressional approval, through a Presidential Decree, provided that the maximum rates established by law are observed. Any such changes are effective immediately, but not retroactively.

/THIN-CAPITALIZATION / TRANSFER PRICING

THIN-CAP RULES

Thin capitalization rules became applicable to loan transactions between related persons and any other form of indebtness between a Brazilian-based company and a related person abroad. As a result, interest paid to related persons abroad is deductible for tax purposes according to different limits depending on whether the beneficiary of interest is resident in a LTJ or not. In general, interest paid by Brazilian corporate taxpayers to foreign related parties not located in LTJ or benefiting from privileged tax regimes are only deductible for IRPJ/CSLL purposes if the following limits are observed:

- The amount of the Brazilian entity's indebtness towards the related party does not exceed twice the value of the interest held by the related party in the equity of the Brazilian borrower;

- In relation to indebtness towards related parties not holding interest in the Brazilian entity, the Brazilian entity's indebtness towards the related party is not higher than twice the equity value of the Brazilian borrower; and

- In all cases, the total indebtness of the Brazilian borrower towards related parties is not higher than twice the value of interest held by all related parties.

TRANSFER PRICING RULES

Cross-border transactions (import or export of goods, services, intangible properties and loans) entered into between a Brazilian company and a related party abroad, or a party residing in a LTJ, must comply with transfer pricing regulations (arm's length standard – market price). Brazilian transfer pricing rules are unique and normally work under a formulary apportionment and fixed profit margins.

Brazil is now transitioning from its previous transfer pricing legislation, embracing the internationally recognized OECD Transfer Pricing Guidelines. The new rules is mandatory as from 2024, but taxpayers can opt to adopt them in 2023.

The new transfer pricing model aims to integrate Brazil into the global value chains and mitigate both double taxation and double non-taxation. The model is structured under the Arm's Length Principle (ALP), which replaces Brazil's old fixed-margins system. This new framework, which includes comparability analysis, specified methodologies and documentation requisites, is largely in line with the OECD standard adopted by the majority of countries.

BEAR **IN MIND**

/KEY BRAZILIAN TAXES IN A NUTSHELL

TAX	TAX BASE / TRIGGERING EVENT	RATE
Corporate Income Tax (IRPJ)	Actual profits; estimated profits; profits ascertained by tax authorities (lucro arbitrado)	15% + Surtax of 10% on the portion exceeding R$ 240,000.00 year
Social Contribution on Net Profits (CSLL)	Actual profits; estimated profits; profits ascertained by the tax authorities (lucro arbitrado)	9%, 15% or 25%
Withholding Income Tax (IRRF)	Income, royalties, interest, interest on net equity and capital gains earned by non-residents from Brazilian paying sources	15% to 25% (depending on the nature of income and the country)
Tax on financial transactions (IOF)	Credit, foreign exchange, insurance and securities transactions	Variable (most common rate is 0.38%)
State VAT on Goods (ICMS)	Transaction value – domestic sales and imports	7% to 33% (certain healthcare products are exempted from ICMS)
Municipal Tax on Services (ISS)	Service price	2% to 5%
Custom duty (II)	CIF product value	0% to 35%
PIS Contribution	Revenue (the company's gross income) and imports	1.65% or 0.65% (non-cumulative or cumulative taxation system, respectively)
COFINS Contribution	Revenue (the company's gross income) and imports	7.6% or 3% (non-cumulative or cumulative taxation system, respectively); 4% (on financial revenues)
Excise Tax on Manufactured Products (IPI)	Transaction value – domestic sales and imports	Variable (according to the NCM code)

HOT **TOPIC**

BRAZILIAN TAX REFORM (PEC 45/2023)

In July 2023, the House of Representatives approved Constitutional Amendment (PEC) No. 45, which may introduce significant changes to the consumption taxes in Brazil. The effectiveness of these changes is still subject to Senate's approval. The Ministry of Treasure is also examining potential changes to the corporate income tax, including the introduction of dividend taxation.

MAIN AMENDMENTS:

New taxes:

Replacement of State and Municipal Sales Taxes (ICMS/ISS), Social Security Charges (PIS/COFINS) and Excise Tax on Manufactured Products (IPI) by a dual IVA (Value Added Tax) model, consisting of CBS (Contribution on Goods and Services) and IBS (Tax on Goods and Services). Introduction of an excise tax on goods and services that are harmful to health and the environment (IS).

Taxable event:

CBS and IBS will be levied on transactions with tangible or intangible goods, including rights or services, under a full non-cumulative system. IS will be levied on the production, marketing or importation of assets and services that are harmful to health or the environment.

Calculation basis:

IBS and CBS will be calculated based on the transaction value. Contrary to the current regime, taxes will not be computed on their own calculation basis. By eliminating the "gross-up methodology", taxpayers will have more transparency on the tax burden.

Consumption or destination-based principle:

Taxation where the consumption of goods or services takes place.

Tax rates:

Resolution of the Senate will establish the tax rate, which will apply indistinctly to all transactions with goods or services. IS rate to be defined by the Federal government, subject to limitations described in the law.

Tax incentives:

Reduction of IBS and CBS rates by 60% for education, health, medicine, agricultural, fishing, forestry, and extractive products; agricultural inputs, food, hygiene products, and artistic activities.

Tax exemption on transport services as well as on medical and accessibility devices, drugs, vegetables, fruits and eggs, and integrated producer operations. CBS exemption on PROUNI (Brazilian public policy towards higher education) and services benefited by PERSE (Emergency Program for Events Sector).

Fuels and lubricants; financial institutions, real estate, health plans; government procurement, cooperatives; tourism.

Maintenance of the Manaus Free Trade Zone and the simplified tax regime for small businesses (SIMPLES). Presumed credit to purchasers of rural products from small rural producers.

"Cashback" for low-income families and other tax exemptions:

A cashback mechanism for returning taxes to low-income families. Full exemption of the items that as part of the so-called basic-needs grocery package.

Transition rules and ICMS tax incentives:

CBS and IBS will come into force in FY 2026, with a federal rate of 0.9% and a subnational rate of 0.1%. In 2027, PIS/COFINS and IPI will be extinguished. In 2033, ICMS and ISS will be fully extinguished.

Existing ICMS tax benefits will be preserved up until 2032. Remaining ICMS tax credits may be offset against the IBS in 240 successive installments.

ANTITRUST.

TozziniFreire.

INTRODUCTION

Competition Laws have been vigorously enforced in Brazil since 1994. They have two major goals:

1. Ensuring **fierce competition** – preventing competitors from acting in collusion.

2. Preventing **abuses of economic power** from **dominant players** towards *customers, distributors, suppliers.*

PRINCIPLE No. 1

Firm Independence

Companies must independently determine their business strategies.

PRINCIPLE No. 2

Restraints on Dominance

Being a monopolist or market dominant is NOT outright illegal.

However, dominant firms need to take precautions to preserve competition.

The Brazilian Competition Law is enforced by the **Administrative Council for Economic Defense (CADE)**. Enforcement occurs in two ways:

1. MERGER CONTROL

- Certain M&A transactions and commercial contracts require antitrust approval **before being implemented**.

2. ANTI-COMPETITIVE CONDUCT INVESTIGATIONS

- Practices that restrain competition are administratively investigated by CADE (fines of up to 20% of of the group company's turnover) and may be criminally prosecuted.

OVER**VIEW**

/MERGER CONTROL: HOW IT WORKS

THRESHOLDS

Certain[1] mergers, acquisitions of assets/shares/control, joint ventures, consortium, and association agreements[2] **require CADE's approval before they can be implemented**, provided the parties involved exceed certain turnover thresholds:

- At least one of the parties' **gross turnover or volume of sales in Brazil > BRL 750 million (approx. USD 135 million)**, and
- Another party's **gross turnover or volume of sales in Brazil > BRL 75 million (approx. USD 13.5 million)**.

PROCEDURES

Review proceedings vary according to transaction complexity.

1. **Fast track proceeding** (faster clearance decision) for less complex cases.

Statutory review period: 30 days[3]

Eligible transactions:

- Horizontal overlaps below 20%.
- Vertical integrations with shares below 30%.
- Other cases with minimal share increment.

2. **Ordinary proceeding**: other, more complex, transactions must be filed under the **ordinary proceeding**, which requires providing **more information** to CADE.

Statutory review period: **240 days**[3] (extendable to 330 days). Expected review period: 3-6 months from filing, depending on the complexity of the case.

[1] Certain association agreements with the aim of participating in **public tenders** are not caught.
[2] Other types of commercial contracts may be caught.
[3] A waiting period of **15 days** post-approval usually applies.

REVIEW PERIOD

Average - Transactions in **all sectors** (2024):

- **15 days** (fast track).
- **94 days** (ordinary procedure).

Parties **are not allowed to implement the transaction** before CADE's clearance, subject to fines of up to **BRL 60 million (USD 11 million)** and annulment of the transaction. The statute is actively enforced and gun-jumping investigations and fines have been increasing significantly since 2023.

DEFINITIONS

Acquisition of assets. Caught if it involves **assets considered essential to the activities** of the acquiring party or the transaction results in an **increase in the capacity** of the acquirer in the relevant market.

Acquisition of shares (including convertible debentures). Caught if it involves **≥5%** of the target's capital **when there is any overlap (horizontal/vertical) between the purchaser and the target; or ≥20% when there is no overlap**.

Acquisitions on the **stock exchange do not require** prior **approval by CADE**, but political rights cannot be exercised **before clearance**.

Association agreement. Caught in case of contracts over 2 years and creates a **joint enterprise to develop an economic activity**, provided that:

- The parties will share profit and losses;
- The parties are competitors in the relevant market related to the agreement.

ECONOMIC GROUP

"Parties" refer to the consolidated **economic groups** of each of the companies involved in a transaction.

Companies subject to **common control + companies** in which any of the companies under common control, **directly or indirectly, holds at least 20%** of the capital are considered part of the same economic group, for purposes of turnover calculation (a broader definition applies to the antitrust assessment).

For investment funds, see below which companies and parties are considered part of the same economic group:

- Quotaholders with **≥50%** participation in the fund directly involved in the transaction;
- Companies from its economic group;
- Companies in which the fund involved in the transaction holds an interest of 20% or more.

ANTI-COMPETITIVE CONDUCT

Enforcement Activities

Any practice adopted by a player that may, even potentially, cause damage to free competition, regardless of the intention of damaging the market.

The Competition Law establishes a non-exhaustive list of practices that may cause harm to competition. Whether such conducts will really have this effect is analyzed on a case-by-case basis. Anti-competitive practices are generally split into:

1. Collusive or coordinated practices (e.g., hardcore and hub-and-spoke cartels, etc.).

- Exchange of competitively-sensitive information between competitors is, as a rule, also prohibited. Sensitive information includes strategy, costs, pricing, and other non-public information (e.g. HR variables including salaries and benefits).

2. Unilateral practices (e.g., Resale Price Maintenance, Discriminatory Practices, Tie-in Sale, etc). CADE has also recently been investigating price/strategy signaling practices (to competitors).

Anti-competitive effects as provided by the Competition Law

Limiting, distorting or in any way harming free competition; arbitrarily increasing the economic agent's profits; dominating the relevant market for goods or services; or when such conduct means that the economic agent is exercising its market power abusively.

COLLUSIVE AND UNILATERAL PRACTICES

Cartels. Agreement or coordinated practice between competitors to fix prices, divide markets, establish quotas or restrict production, adopt prearranged positions in public tenders, or coordinate any competitively sensitive variable.

Cartels are illegal per se – no proof of effects needed.

Both an administrative offense punishable by CADE, pursuant to the Competition Law, and a crime (2 to 5 years imprisonment).

International cartels are also punishable as long as the potential effects of the cartel on Brazilian territory are proven (exports to Brazil are sufficient).

Damage claims. Those adversely affected may claim compensation for the losses and damages suffered.

Unilateral conduct. Abuse of a dominant position occurs when a company that has a dominant position ("soft" safe harbor of share ≥20%), adopts anti-competitive conduct with the aim of dominating the market for goods or services in which it operates.

Subject **to the rule of reason – potential anti-competitive effects** must be proven.

Abuse of dominance investigations may result in **injunctions** by CADE to suspend ongoing practices years before a final decision is issued.

BEAR **IN MIND**

Competition Laws are taken seriously in Brazil. Here is how antitrust laws interact with how you do business:

M&A: Antitrust and M&A go hand-in-hand for transactions requiring a merger review.

Competition counsel can help ensure compliance with gun-jumping laws and seek timely clearance for complex transactions, preserving deal value.

Commercial practices: Commercial routines and practices can be reviewed, and personnel can be trained to minimize antitrust risk over the course of their business and dealings with third parties.

Investigation & Risk Management: Should antitrust issues arise, antitrust counsel can investigate and suggest remediation measures to manage risk and liability.

Business Protection: Companies suffering from anti-competitive practices undertaken by competitors have a number of remedies available, including complaints to be filed with the antitrust authority, injunctions, and damages claims.

INTERNATIONAL TRADE.

TozziniFreire.

OVERVIEW

RADAR

Companies that intend to perform import or export activities in Brazil in a regular basis must include such activities in its object and purpose.

Any companies that intend to perform any import and/or export activities must register with the Brazilian Revenue Service (RFB), which is the Brazilian Customs authority to have access to SISCOMEX (National Integrated Foreign Trade System), the Single Window Project, where all import/export transactions are registered in Brazil. This registration was formerly known as **RADAR**.

RADAR is needed in case of importation for processing or resale in Brazil, in case of importation for third companies (acting as trading company), and for export activities in general.

Main regulations: RFB Normative Instruction No. 1,984/2020 and COANA Ordinance No. 72/2020.

There are two modalities of RADAR available for companies:

- **Limited RADAR:** importations in amounts up to US$ 50,000.00 CIF or up to US$150,000.00 CIF per period of six months, and exportation without limitation;

- **Unlimited RADAR:** importations without limitation in terms of value, and exportation without limitation.

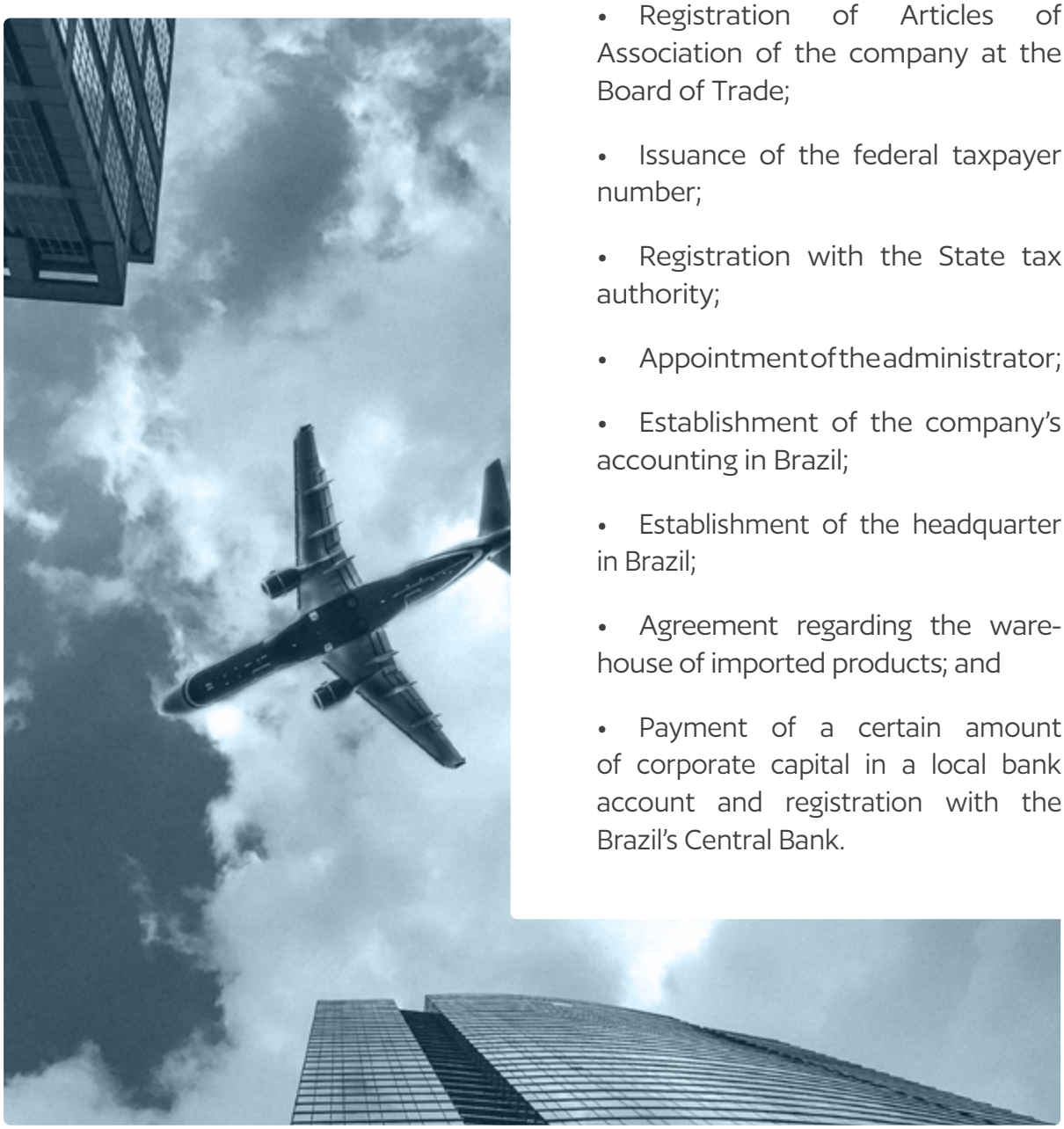
The modality of RADAR is granted by the RFB based on the "financial capacity of the company to perform import activities in Brazil" – federal taxes paid by the applicant in the previous five years.

New companies may be granted with a modality of RADAR that is not sufficient for the intended activities of the company – review of its financial capacity.

An important note should be made with respect to the corporate capital of the company. As said above, the company would probably be granted with a RADAR with a lower limit of imports that would not be sufficient for the company's needs.

Under the Brazilian Customs legislation:

1) The review of the financial capacity of the company must be based on the current assets of the company in Brazil and **higher than the equivalent to US$ 150,000.00** – corporate capital, duly paid, in a local bank account.



2) For the RADAR application are required:

- Registration of Articles of Association of the company at the Board of Trade;
- Issuance of the federal taxpayer number;
- Registration with the State tax authority;
- Appointment of the administrator;
- Establishment of the company's accounting in Brazil;
- Establishment of the headquarter in Brazil;
- Agreement regarding the ware-house of imported products; and
- Payment of a certain amount of corporate capital in a local bank account and registration with the Brazil's Central Bank.

BEAR **IN MIND**

SUPPLY CHAIN MATTERS

Importing equipment into Brazil:

- New equipment – with or without local production; absence of local production – ex-tarifario (reduction of the import tax to zero);
- Used equipment – only in case of absence of local production.

Main issues related to structuring of supply chain:

- **Tariff classification:** Mercosur Common Nomenclature (NCM) – eight digits code (based on the Harmonized System).

1. Basis for taxes and administrative treatment.

- **Indirect importation:** use of trading companies.

1. Importation on behalf of third parties (service).
2. Importation under order (purchase and resale).
3. Importation under order and distribution.

- **Free trade agreements:** Mercosur, ALADI, others – tariff preferences based on the respective rules of origin.

1. Based on tariff code (case-case-basis);
2. Main rules: local content or change in the first four digits of the tariff code.

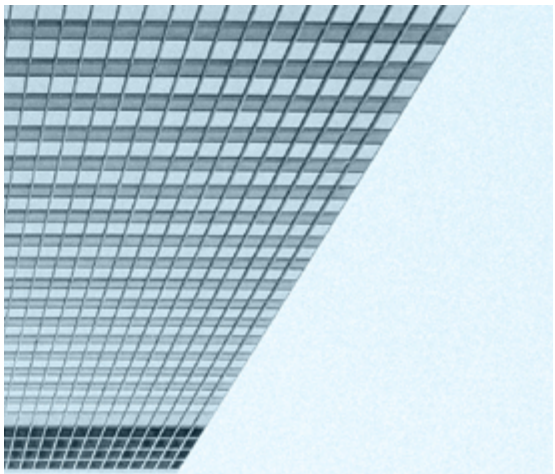
- **Special customs regimes:** timing for nationalization and payment of taxes due upon importation: temporary admission, temporary export, bonded warehouse, drawback, etc;
- **Simplified tax regime for imports:** express shipping (courier) and imports via Post;
- **Import documents:** invoice, packing list, bill of lading / airway bill
- **Import licenses:**

1. Based on tariff code (on a case-case-basis) – approval by another governmental agencies.
2. Individual transaction or by lot.

TRADE COMPLIANCE MATTERS

- **Authorized Economic Operation (AEO) Certification** – with the Brazilian Customs Authority:
  1. Customs Compliance (imports);
  2. Logistic Safety (exports);
  3. Compliance, processes and controls – benefits in terms of green channels, bureaucracies.

- **Sanctions:** Brazil applies only sanctions approved by the United Nations (multilateral) – SECEX Ordinance No. 23/2011.
- **Export Controls** (goods only): sensitive goods (nuclear, chemical, biological, dual use), defense goods.



LABOR.

TozziniFreire.

INTRODUCTION

Brazilian labor and employment relations are a matter of Federal law. Therefore, labor and employment rights are nationally standardized and the same employment rights and consequences will apply regardless of an employer's place of business or place of incorporation. Unions and applicable collective bargaining agreements, however, vary in accordance with the core business and location of the company.

Brazilian Labor Law is protective of employees. The main rules concerning labor relations in Brazil are contained in the Labor Code, the so-called "Consolidação das Leis do Trabalho – CLT", enacted on May 1st, 1943. On November 11, 2017, the Labor Reform became effective, and it is the most recent relevant change in our labor law. The changes intended to: (i) update the Brazilian Labor Code, (ii) improve labor relations, (iii) value collective negotiations between workers and employers, (iv) reduce the number of labor claims filed every year, (v) reduce the workforce informality, and (vi) simplify labor procedures.

Some basic principles implicitly or expressly provided by Law will govern any employment relationship in Brazil. The most relevant principles are: (a) prevalence of facts: in the determination of labor consequences, the relevant facts surrounding an employment relationship will prevail over formal documents (that may state that the worker is an independent contractor); (b) prohibition of detrimental changes: employers are prevented from making changes to employment terms and conditions that are detrimental to employees, whether or not the employee has previously consented with the change; and (c) joint liability (group of companies): companies belonging to a group of legal entities under the same control, direction or management are jointly liable for the obligations of any company belonging to such group with respect to employment relationships.

OVER**VIEW**

KEY POINTS

- The most common practice is hiring workers as employees.
- Employment agreements in Brazil are usually for indefinite term; fixed term employment agreements are only allowed in specific situations.
- All companies and employees are mandatorily represented by Unions.
- Employments are at will, meaning that any party may terminate the employment agreement without cause upon mandatory prior notice and payment of the severance.
- Work permits must be requested whenever a foreigner wants to work in Brazil.

HIRING WORKERS IN BRAZIL

An employment relation is characterized by the simultaneous presence of four elements: (i) services rendered on a personal basis; (ii) on a permanent/habitual basis; (iii) with subordination (i.e., the services are rendered under the direction of a supervisor); and (iv) in view of remuneration in consideration for the services rendered.

Whenever the four elements of an employment relation are not present in a labor relation, the parties are free to structure it in a different way other than employment, such as: independent contractors/consultants, service providers/outsourced workers, temporary workers, intern, non-employed officers, among others, provided that the specific rules and regulations regarding such other forms are complied with. The Labor Code is applicable solely for employees, while different statutes govern the other work structures.

	EMPLOYEE	INDEPENDENT INDIVIDUAL CONTRACTOR	INDEPENDENT CONTRACTOR LEGAL ENTITY	TEMPORARY WORKER
LABOR RIGHTS (PAID BY THE COMPANY)	Approximately 32% of monthly salary: 13th salary, vacation bonus, and FGTS (Employer's Contributions to the Severance Pay Fund). Strict termination rules.	The parties should negotiate conditions.	The parties should negotiate conditions.	Workers should be employees of the temporary work agency. So, the costs are similar to employee´s costs + fees
SOCIAL SECURITY (DUE BY THE COMPANY)	Approx. 28%	20%	N/A	N/A
COMMENTS/ RISKS	There are additional conditions and benefits set forth in the applicable collective bargaining agreement.	If the services are rendered under subordination, they may file a labor claim requesting the recognition of an employment relationship and the labor rights.	If the services are rendered under subordination, they may file labor claim requesting the recognition of a relationship and the labor rights.	Maximum period of 180 days. It may be extended for 90 days.

BEAR **IN MIND**

MAIN EMPLOYMENT RIGHTS

As an employee, the following **main rights** should be considered:

Compensation: Monthly salary. It is the base calculation of all other rights. It must be paid up to the 5th day of the following month.

13th Salary: All employees are entitled to receive 13 salaries per calendar year (pro rata to the months worked during the year). It must be paid in two installments.

Vacation Bonus: 30 days after each 12-month worked period. The remuneration of the vacation period corresponds to the regular monthly remuneration and an additional 1/3 of such amount. The vacation period can be taken in up to three periods, one of which cannot be less than 14 days and the others cannot be less than 5 days each.

FGTS (Employer's Contributions to the Severance Pay Fund): Corresponds to 8% of the employee's salary, including bonus, variable remuneration, etc. It must be deposited every month into the employee's bank account opened at Brazilian Federal Bank (Caixa Econômica Federal).

Benefits: The only mandatory benefit per law is the transportation voucher for employees who use the public transportation system to commute between home and the workplace. Other mandatory benefits may be established in the applicable collective bargaining agreement.

Unions and CBA: All companies and employees are mandatorily represented by preexisting Unions. Unions negotiate collective bargaining agreements (CBA), which sets forth additional work conditions and benefits.

Working Hours: As a rule, all employees are subject to working hours control (most usual is 8 hours daily/44 hours weekly). There are employees exempt from working hours control (trust position, employees who work outside the company's premises and telecommuting employees who work by production or task). There are types of employees that have reduced working hours.

Termination of Employment: Employment agreements are mostly executed for an indefinite term and can be terminated by any party, with or without cause or by mutual consent, provided the mandatory severance package is paid. Some employees are holders of job stability and cannot be terminated. For every type of termination (resignation, termination without cause, mutual consent, and termination with cause), there is a mandatory severance package.

Health and Safety: There are several regulations providing for strict rules concerning health and safety at the workplace. The main programs Brazilian companies must implement are Occupational Health and Medical Control Program (PCMSO); Environmental Risk Management Control Program (PGR); Internal Commission on Accident Prevention (CIPA); and Specialized Occupational Health and Safety Team (SESMT). Their conditions may vary depending on the number of employees and risk factor of the companies. Other rules and health and safety programs may have to be observed depending on the activities performed by the companies.

UNION FRAMEWORK

All employers and employees are mandatorily represented by **preexisting Unions:**

Union representing the company – It is based on core business of the company and its location

Union representing employees – It is also defined by the employer's core business and location. The employees' union classification is determined by their employer's main activity.

The company must comply with all terms and conditions of the Collective Bargaining Agreement (CBA):

- Collective Bargaining Agreement (CBA) applicable to the whole category is called in Portuguese *Convenção Coletiva de Trabalho* (CCT).

- The company may negotiate special/differentiated conditions directly with the employees' Union, which will complement the terms and conditions of the CCT. Such specific CBA applicable solely to a particular company is called in Portuguese *Acordo Coletivo de Trabalho* (ACT).

- These collective bargaining agreements (both a CCT or an ACT) may regulate supplementary rights in addition to those set forth by law.

- Collective agreements (CCTs and ACTs) may also be used to govern and even reduce specific rights granted by law, except if such legal rights pertaining to the employees' health and safety and/or if the reduction affects third parties' rights (e.g. Federal Revenue or Social Security Department).

Since the unions are determined by location and activity, a company may be subject to more than one union and applicable CBA in accordance to the regions where its branches are located and the activities it performs.

HOT **TOPIC**

GENDER EQUITY

It is worth mentioning that there are some regulations concerning gender equity and remuneration criteria in Brazil:

Law No. 14.611/2023, known as the **Equal Pay Law** or **Gender Equality Law**, mandates equal pay for equal work and introduces measures to ensure wage equality between male and female employees. It requires companies with 100 or more employees to publish a semi-annual transparency report with information on their wage and remuneration practices. This report highlights not only the pay disparities between male and female employees but also the gender and race ratio within the workforce.

Failure to comply with this requirement may lead to an administrative fine of up to 3% of the company's payroll, capped at 100 minimum wages, which currently corresponds to BRL 151,800.00.

The Ministry of Labor and Employment (MTE) is responsible for the draft of the transparency report which will be based on the data already provided by the companies in the e-Social system (which is a mandatory government system used by the companies to report their tax, labor and social security obligations) and on the information provided by the companies in the form disclosed on the MTE's specific website called in Portuguese "*Portal Emprega Brasil*".

MENTAL HEALTH - PSYCHOSOCIAL RISKS

In August 2024, the Ministry of Labor and Employment updated the Regulatory Standard No. 1 (NR-1) to explicitly include psychosocial risks prevention in the Risk Management Program (PGR) alongside physical, chemical, biological, and ergonomic hazards.

Psychosocial risks include mental health issues, excessive pressure, unattainable goals, exhausting work hours, lack of emotional support, toxic organizational culture, interpersonal conflicts, moral and sexual harassment, among other factors that may affect the well-being of the employees in the workplace. Companies are required to identify, assess, and implement procedures to mitigate them.

During 2025, the new guidelines will have an educational character, with enforcement beginning in May 2026. Therefore, as form such date, companies must have an updated PGR already addressing the matter.

COMPLIANCE AND INVESTIGATIONS.

TozziniFreire.

INTRODUCTION

Brazil is ranked in international corruption perception indexes, making the country a **high-risk market for corruption**. Although having a compliance program is not mandatory, it mitigates risks and potential penalties arising from violations. If the company plans on dealing with the government, is regulated by specific agencies, or is seeking financing, having a compliance program may be mandatory:

New Government Procurement and Contracts Law – companies with large-scale projects, services, and supplies (i.e., those with an estimated value exceeding BRL 200 million) must implement an integrity program within six months from the execution of the contract.

Resolution No. 4,595/2017 of the Brazilian Central Bank (BACEN) – financial institutions (except for consortium administrators and payment institutions) are required to implement and maintain a compliance policy compatible with their nature, size, complexity, structure, risk profile and business model.

BNDES (National Economic and Social Development Bank) – companies with **revenue of BRL 300 million or more** will be required to have a compliance program to apply for financing before BNDES.

- Highly regulated industries are likely the ones with more risk.
- Having third parties acting on behalf of the company poses risks to the business.
- There is joint liability for companies of the same economic group, including parent, controlled or affiliated companies or consortium members.
- There is succession of liability in the event of, e.g., mergers, acquisitions or spin-offs (limited to payment of the fine and disgorgement).

It is paramount to conduct proper integrity due diligence to assess and mitigate risks prior to doing any business in Brazil.

OVER**VIEW**

/MAIN AREAS OF RISK AND RECOMMENDED BEST PRACTICES

GOVERNMENT PROCUREMENT AND INTERACTION WITH PUBLIC OFFICIALS

Government procurement is conducted under a highly regulated process in Brazil, and enforcement by authorities and scrutiny by controlling agencies are increasing.

- Areas of risk include bid rigging, influence in RFPs, fraud in contract performance, interactions with public officials (meetings, offers of gifts, meals, etc.).

- There are **different guidelines and legislation applicable** for each government entity, depending if it is federal, state or municipal.

THIRD PARTIES

Companies can also be held liable for acts committed by third parties acting in their interest or benefit. The following measures can mitigate risks:

- Carrying out appropriate **risk-based due diligence** for hiring and supervising third parties is essential, and **Brazil has a significant amount of official information publicly available and online**.

- Conducting due diligence is recommended to **control the activities** carried out by **third parties** hired to act on behalf of the legal entity.

- Training employees and third parties in risk-related matters.

BRAZILIAN CLEAN COMPANIES ACT (BCCA)

Law No. 12,846/2013 or BCCA is regulated by Decree No. 11,129/2022.

The BCCA establishes rules for administrative and civil liability of companies for the practice of the following acts against national or foreign government:

- **Directly or indirectly** promise, offer or give an **improper advantage to government agent**, or the related third person.
- **Bid rigging in public tender or government contracts**.
- **Activity** of governmental bodies, entities or government agents **Obstruct investigation or monitoring**.
- Finance, fund, sponsor or in any way **subsidize the practice of illegal acts**.

STRICT LIABILITY

Companies can be held liable for acts committed by third parties in their interest or benefit.

Having **appropriate policies and due diligence process** in place are essential to mitigate risks involving third parties.

JURISDICTION

Companies that do not operate directly in Brazil could be sanctioned under the BCCA.

The BCCA applies in the event of harmful acts committed: (i) by a **Brazilian legal entity** even if the act was committed abroad; (ii) in whole or in part in **Brazilian territory**; (iii) abroad, when **committed against the Brazilian national government**; (iv) by legal entities that have their **headquarters, branches or representation in Brazil**.

PENALTIES INCLUDE:

- **Fines** ranging from 0.1% to 20% of a company's gross revenue.
- **Disgorgement** of profits obtained from the misconduct.
- **Publication** of the **condemnatory decision**.
- **Suspension or partial interdiction of** company's activities.
- **Forfeiture** of assets, rights or **compulsory winding up** of the company.
- **Prohibition** from receiving incentives, subsidies, loans or grants from government-owned institutions.

/COMPLIANCE PROGRAM

According to the BCCA (Brazilian Clean Companies Act), a combination of internal mechanisms and procedures for integrity and auditing purposes, as well as incentives for reporting irregularities and the effective application of codes of ethics and conduct, policies and guidelines, to detect and remedy deviations, fraud, irregularities and harmful acts committed against national or foreign public administration.

According to the Office of the Federal Controller General (CGU), integrity programs should be structured on five pillars:

1- Tone at the top – The company's top management must encourage an ethical culture and the respect for the law.

2- Responsible area – Autonomy, independence, impartiality, sufficient material, human and financial resources.

3- Risk and profile analysis – Company's procedures, organizational structure, area of operation, main business partners and level of interaction with public authorities.

4- Rules and mechanisms – Code of ethics and/or conduct, policies, mechanisms to detect or report harmful acts, whistleblower protection mechanisms, disciplinary measures for violations and remediation measures.

5- Continuous monitoring – Verification of the effectiveness of the integrity program, its improvement and updating.

BEAR **IN MIND**

- All **codes, policies, proceedings, communications, training and reporting channels** need to be in **Portuguese** and with reference to the **Brazilian legislation**.

- If your company does business with public clients, it is essential to have **policies, proceedings and training in place with rules for interacting with public officials and government procurement.**

- Some regions and communities in Brazil have a very **informal culture**, which **can lead to requests that are not acceptable** under Brazilian legislation (e.g., donations, hospitalities, sponsorships, corruption).

- Your company will probably deal and interact with **third parties that are not so well developed** from a corporate governance perspective (e.g., family or local businesses), which will **require appropriate risk management tools.**

CRIMINAL.

TozziniFreire.

INTRODUCTION

Legal entities can be victims of, and benefit from, criminal activities. In this scenario, companies subject to corporate fraud investigations or criminal proceedings as a result of tax, social security, financial, competitive, environmental, money laundering or bankruptcy-related issues have developed a need for legal services in the white-collar crimes area, but also from a broader and multidisciplinary perspective.

OVER**VIEW**

CRIMINAL LIABILITY

Brazilian law provides for criminal liability of legal entities only in exceptional cases, such as those of environmental crimes. In all other cases, criminal liability only applies to individuals, not to companies.

Also, under the Brazilian law, there is no strict liability in relation to criminal matters.

In order to be criminally liable, an individual must act with *mens rea* or fault, and intent is crucial to determining both participation in the criminal offense and criminal liability. Therefore, the **Brazilian law does not authorize the attribution of criminal liability only based on someone's role within a company.**

However, there are situations in which it is possible to attribute criminal liability to those who, in spite of not having committed the offense directly, **have failed to make decisions or take action that could prevent the criminal offense from occurring, when they had the duty and the possibility of avoiding it.**

Therefore, **companies representatives or directors may be held liable for crimes** that they have not perpetrated directly, if the criminal offense is deemed to be a result of the company's lack of compliance with the legal requirements applicable to its activities, and if the representatives/directors, being aware of this irregular situation, have not taken any action to avoid noncompliance (omission).

CORPORATE CRIMINAL LIABILITY

The Brazilian law provides for criminal liability of legal entities only in case of **environmental crimes**. If convicted for such crimes, legal entities can be subject to the following penalties:

- fines;
- provision of community services (e.g., financing of environmental projects);
- partial or total suspension of the company's activities;
- suspension of a specific project or activity performed by the company;
- prohibition from entering into contracts with Brazilian government entities and from obtaining donations, loans or tax incentives from Brazilian government entities (Federal Law No. 9,605/1998).

When **fixing the amount of the fine**, the judge will take into consideration (i) the severity of the fact, considering the reasons for the infraction and its consequences for the public health and for the environment; (ii) the perpetrator's background regarding compliance with the environmental legislation; (iii) the economic situation of the perpetrator.

Moreover, pursuant to Section 19 of Federal Law No. 9,605/1998, a forensic exam will determine the total amount of environmental damage for purposes of fixing bail and fines, whenever possible.

/WHITE-COLLAR CRIMES

TIMELINE – CRIMINAL PROSECUTION

Police investigations (IP) and Criminal Investigative Procedure (PIC): investigative measures, police testimonies, breach of financial, tax and bank secrecy, and search and seizures

Final report of the investigations suggesting indictments

Criminal charges

Judicial decision formally initiating a criminal case

Initial defense (RA)

Judicial decision that may or may not acquit the defendant with no probation stage

Probation stage: hearing sessions (prosecution and defense witnesses), judicial questioning of the defendants

Prosecution's final written statements

Defense's final written statements

Sentence

Appeal (Federal or State Appeal Courts)

Following the appeal phase > STJ (Federal law) > STF (Constitution)

*At any time of a criminal inquiry, criminal case or appeal, it is possible to apply for a writ of Habeas Corpus, which must be granted whenever a person suffers, or is in danger of suffering, violence or coercion against their freedom of movement, on account of illegal actions or abuse of power. It is possible to file a Habeas Corpus against the judge's decision to maintain the charge and initiate the probation phase of the criminal case, or against the chief of police's decision to indict the individual as the probable author of the criminal offense.

PRECAUTIONARY MEASURES

Even though criminal liability for non-environmental crimes only applies to individuals, not to companies, precautionary measures of freezing financial assets, which may be adopted at any stage of a criminal investigation or case launched against individuals, **may be imposed on the legal entity's assets**, if it is demonstrated that the company was used for the commitment of crimes and has benefited from its financial results.

- Legal entities may also receive a **court order for the disclosure of tax and bank records** in the same scenario.

- Legal entities may also be subject to **search and seizure**, aimed at obtaining evidence in an investigation or judicial proceeding. To be valid, there are some requirements for the search and seizure:

1. Written and reasoned judicial decision > warrant.
2. Execution of the warrant during the day (unless the execution at night is expressly authorized by the individual).
3. Conduction by the Chief of Police, who may be accompanied by other authorities (antitrust authorities, Revenue Office).
4. The use of force or forced entry is not allowed (except in cases of contempt or if the place is empty).

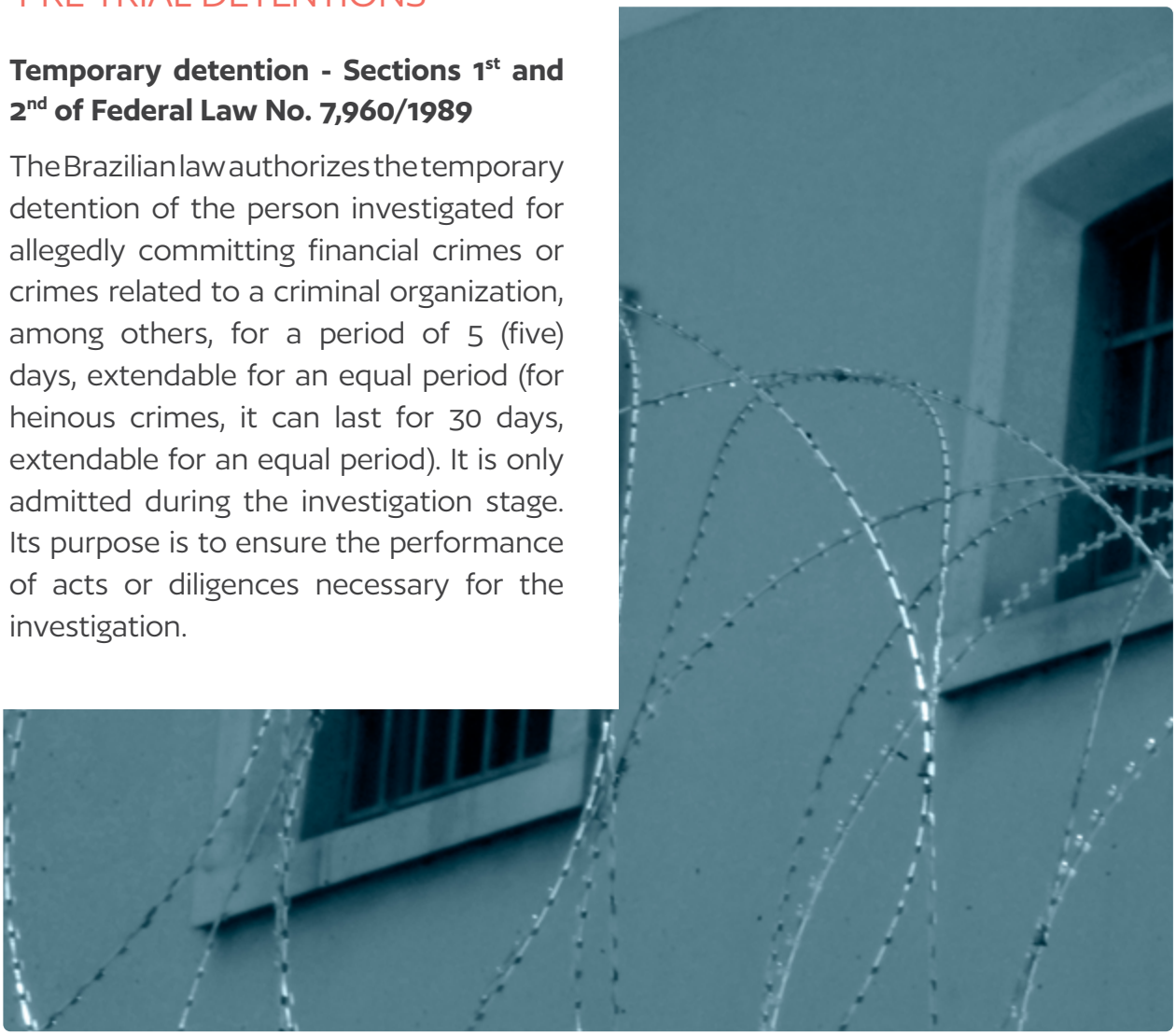
PRE-TRIAL DETENTIONS

Temporary detention - Sections 1st and 2nd of Federal Law No. 7,960/1989

The Brazilian law authorizes the temporary detention of the person investigated for allegedly committing financial crimes or crimes related to a criminal organization, among others, for a period of 5 (five) days, extendable for an equal period (for heinous crimes, it can last for 30 days, extendable for an equal period). It is only admitted during the investigation stage. Its purpose is to ensure the performance of acts or diligences necessary for the investigation.

Pre-trial detention - Section 312 of Brazilian Criminal Procedure Code

Its purpose is to prevent the investigated person/defendant from committing new crimes or jeopardizing the progress of the case by destroying evidence, threatening witnesses or fleeing. It can be ordered at any stage of the criminal prosecution (process or investigation).



NEGOTIATED CRIMINAL JUSTICE

In recent years, negotiated justice has become more relevant in Brazil, with the introduction of new doctrines.

Non-Prosecution Agreement (ANPP)

A non-prosecution agreement is a legally binding agreement between prosecutors and corporate or individual defendants subject to a criminal (or civil enforcement) investigation. The agreement must be proposed only when there are sufficient elements of evidence to press charges.

- Valid for crimes with a minimum sentence of less than four years.
- Confession is mandatory – which may have legal effects in civil and labor courts.
- The victim must be reimbursed from financial losses.

Collaboration Agreement

Similar to a plea-bargain agreement. The alleged perpetrator of a crime who collaborates with the investigation, research, providing useful evidence, and reporting other people is entitled to some benefits (reduction of penalties and alternatives to detention – although he/she must still be criminally prosecuted).

Leniency Agreement

Individuals who enter into a leniency agreement with the Brazilian Antitrust Authority (CADE) have criminal immunity for crimes of cartel and other connected crimes. The leniency agreement set forth by the Anticorruption law does not provide for criminal immunity.

HOT **TOPIC**

Some of the most usual criminal matters in the context of white-collar crimes are the following:

- Money laundering (Law No. 9,613/1988).
- Financial crimes, such as money evasion, fraudulent/reckless management of a financial institution, and operating a financial institution without the proper Central Bank authorization (Law No. 7,492/1986).
- Cryptocurrencies frauds (Law No. 14,478/2022).
- Insider trading and fraudulent market manipulation (Law No. 6,385/1976).
- Tax evasion (Law No. 8,137/1990).
- Consumer crimes (Law No. 8,137/1990 and Law No. 8,078/1990).
- Anti-competitive crimes (Law No. 8,137/1990).
- Embezzlement and falsehoods (Criminal Code).
- Environmental crimes (Law no. 9,605/1998).
- Bidding frauds (Law No. 14,133/2021).
- Manslaughter and assaults in the context of labor-related accidents.

CONTRACTING WITH THE GOVERNMENT.

TozziniFreire.

INTRODUCTION

Brazil has multiple Acts to govern public procurement and government contracts. With a general Act, specific laws exist for state-owned enterprises, advertising, defense, startups, and innovation.

In addition to the Federal Government, the States and Municipalities may also regulate, in their own laws and regulations, their bids and contracts.

OVER**VIEW**

General Public Procurement Act:

Law No. 14,133/2021 is the main regulation for government contracting. Law No. 8,666/1993 will remain governing ongoing contracts concluded before December 29, 2023.

State-owned companies:

Law No. 13,303/2016 governs all the bids and contracts executed by Brazilian State-owned companies – i.e., Petrobras, Banco do Brasil, Caixa Econômica Federal, Correios, States' water & sewage companies (Copasa, Embasa).

Defense:

Law No. 12,598/2012 provides special regulations for defense goods and systems. Defense procurement also has specific rules on the Public Procurement Act (PPA).

Concessions and P3 contracts:

Law No. 8,987/1995, Law No. 11,079/2004 regulate concession and P3 (Public-Private Partnership) contracts, respectively, with significant differences from the general PPA, including risk allocation, performance guarantee agreements, and management.

Technology and innovation:

Law No. 10,973/2004 and Complementary Law No. 182/2021 provide new ways for the government to procure technology goods and services and to foster R&D through startups.

Advertising:

Law No. 12,232/2010 rules the bids and contracts for advertising services, with procedures aligned with the ad market practices.

BEAR **IN MIND**

/BID RULES

OBLIGATION TO BID

General Rule

As a rule, government agencies and bodies must contract through a tender procedure.

Exceptions

Brazilian Law provides two main exceptions for the bid rule – waiver *(dispensa)* and non-required *(inexigibilidade)*.

The waiver encompasses cases where direct contracting is allowed in favor of another goal or value relevant to the public interest.

Bidding is unenforceable when there is no effective competition, either because there is an exclusive supplier or because a specific supplier is the most recommended for some situations based on its qualification and track-record.

Qualification and Proposals

- Qualification: Bidders must comply with technical and economic qualifications, proving that they meet with minimum requirements to execute and perform the contract.

- Proposals: Invitation to Bid must provide the rules for the offers, with instructions for Bidders presenting their proposals. When the awarding criteria demand a technical proposal, specific instruction to elaborate it must be provided by the invitation to bid.

Awarding criteria

To award a contract, the invitation to bid must set one of the following criteria:

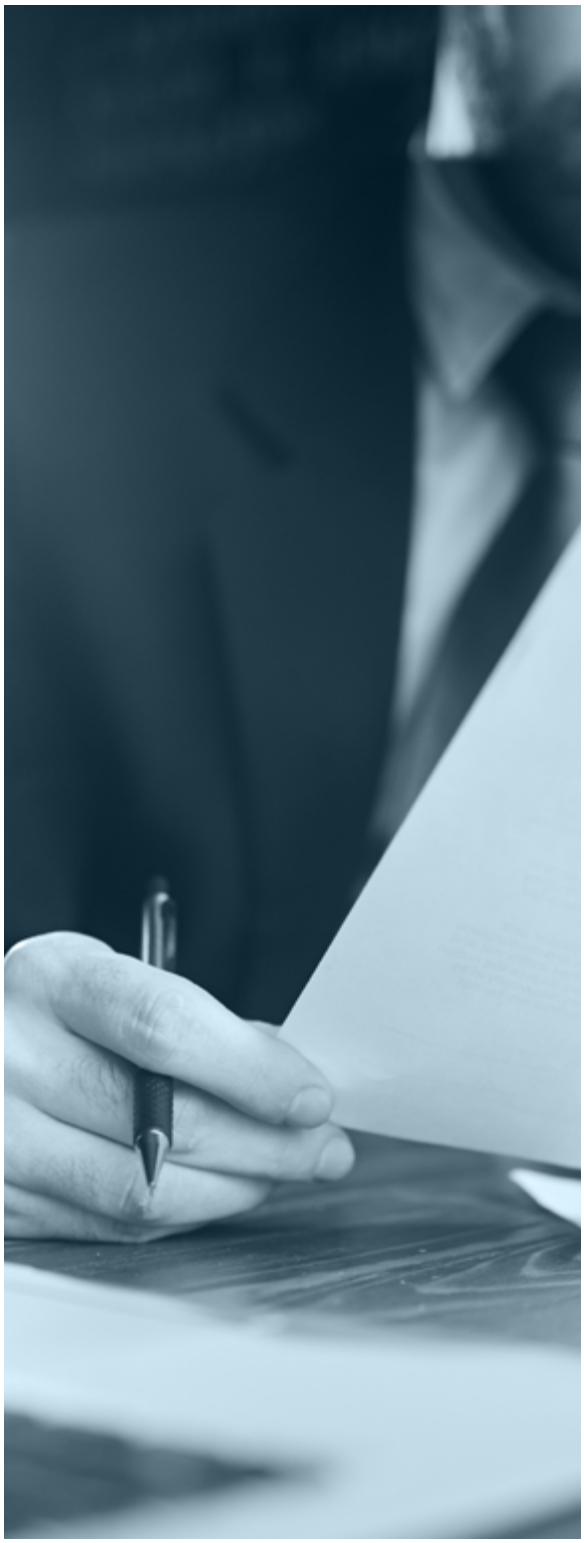
- Lower price.
- Best technical proposal.
- Lower price combined with best technical proposal.
- Highest discount.
- Higher return.

Proceedings

Electronic procedure: Bidding is conducted, as a rule, by an electronic procedure through official government procurement websites.

Invitation to bid: An invitation to bid document governs the tender procedures, ruling the qualifications required, proposal instruction, attending limitations, and authorities' powers.

- Initial discussion: Companies and individuals may request clarifications on the invitation to bid rules. They also may contest the invitation to bid for any unlawful provision.



HOT **TOPIC**

NEW GROWTH ACCELERATION PROGRAM (*NOVO PAC*)

- The program aims to foster economic growth by (a) prioritizing projects and investments, and (b) presenting institutional proposals to improve the regulatory framework.
- The Brazilian Federal Government forecasts BRL 1.7 trillion (approx. USD 341.5 billion) of investments, of which BRL 1.4 trillion for the 2023-2026 period.
- The New PAC focus on construction, ongoing and current concessions, green energy, social infrastructure, technology, and health sector.

NEW PUBLIC PROCUREMENT ACT (PPA)

- A new Public Procurement Act (Law No. 14,133/2021) governs most government contracts in Brazil.
- The new PPA improves government contracts, including the risk allocation, guarantees and is more opened for collaboration with private sector.
- Federal, States, and Municipalities governments still need to regulate some points of the new PPA, so we should expect intense activities during 2024.

CONCESSIONS AND P3 BIDS

- Despite abandoning the privatization agenda, the current government has maintained the schedule of concession bids, with energy, toll roads, and port auctions.
- New railway and coasting navigation regulation should foster new projects.
- Currently, there are bills to improve the regulatory framework in several sectors – roads, urban mobility, ports, energy, and environmental licensing – as well as a bill for a new concessions and P3 Act.
- The States maintain their own agenda of concessions and, some of them, maintain a privatization agenda, especially water & sewage companies.

SECTORS AND **INDUSTRIES**

Construction

- The new PPA brings new rules and contract types for construction, with specific regulation for those of high-value – more than BRL 200 million.
- Additionally, the new PPA provides solid and stricter rules to ensure integrity, preventing and fighting corruption.
- A performance bond, with step-in clause becomes mandatory for high-value construction contracts.
- Construction contract may include project design with a more risk allocation clause.
- PMI – unsolicited proposal – once restricted to concession contracts are now allowed in the general PPA for all contracts.
- The New PPA provides a new type of construction contract that allows the Government to add an associated service to the construction scope of the contract.

Roads and railways

- A new regulation allows private investments in railways under an authorization basis – more flexible and faster than the concession model.
- The Ministry of Transportation announced that will foster P3 contracts for toll roads and railways, expecting to facilitate investments in roads and railways segments with less traffic.
- ANTT – Federal Land Transportation Agency – is very active in the edition of Road Concession Regulations (RCR), to improve the regulation of the sector. RCRs provide new rules for all the main aspects of toll roads concession agreements.

Services

- The new PPA provides an in-depth regulation for services procured by the government, improving rules on contract performance, terms and obligations.

- In addition, the new PPA allows the Government to engage consultancy services to help the management of bids and contracts, promoting new opportunities.

- Efficiency contracts are a new model to procure services, in which the revenues of the private companies are linked to the benefits to the Government.

Issues related to the foreign companies

Brazilian law does not prevent the participation of foreign companies in bids but provides specific rules for the government to procure with those companies.

The new General Public Procurement Act (Law No. 14,133/2021) is much more open for foreign companies that intend to engage in government contracts in Brazil.

Participation in bids

Foreign companies may attend the government's bids provided they are authorized to establish a subsidiary or a branch office in Brazil.

International bid

Bids in which, besides the attending of foreign companies, the bid rules allow the companies to present their offers in foreign currency and the performance – total or partial – of the contract in another country.

Required documents

Foreign companies may comply with the requirements for participating in the bids with similar documents from their origin countries.

They must present a statement informing which documents are similar and those that do not have equivalency in their origin countries. Some Embassies in Brazil provide an official statement for that matter.

CIVIL LITIGATION.

TozziniFreire.

INTRODUCTION

FEDERAL JURISDICTION

Cases in which the federal government, an autonomous government agency or a federal government company have an interest fall under the jurisdiction of the **Federal Courts.**

1. **Trial Courts**
Federal Courts

2. **Appellate Courts**
There are 6 Regional Federal Appellate Courts, so called TRF. For example, the state of São Paulo corresponds to TRF3, Rio de Janeiro belongs to TRF2 and Distrito Federal to TRF1.

3. **Superior Court of Justice**
Court with the specific power to rule on matters of possible violation of **unconstitutional law.**

4. **Federal Supreme Court**
Court with the specific power to rule on matters of possible violation of the **Constitution**.

STATE JURISDICTION

What does not fall under the jurisdiction of the Federal Courts falls within the jurisdiction of the **State Courts.**

1. **Trial Courts**
State Courts

2. **Appellate Courts**
There are 27 State Appellate Courts.

3. **Superior Court of Justice**
Court with the specific power to rule on matters of possible violation of **unconstitutional-law.**

4. **Federal Supreme Court**
Court with the specific power to rule on matters of possible violation of the **Constitution**.

OVER**VIEW**

EXECUTION AND COGNIZANCE PROCEDURES

Execution Procedure

- By having an extrajudicially or judicially enforceable instrument, the interested party may file an execution procedure.
- Once the procedure is assigned, the judge will immediately summon the opposing party to pay the debt.
- Execution procedures must always be based on an instrument for a **certain, liquid and payable** obligation.

Cognizance Procedure

- If the interested party doesn't have an enforceable instrument, it will be necessary to file a cognizance procedure, in order to obtain it after a favorable award.

BRAZILIAN JUDICIARY DATA AVAILABLE ON NATIONAL COUNCIL OF JUSTICE'S WEBSITE

Processing times in relevant states

- São Paulo, Rio de Janeiro and Distrito Federal are three of the most relevant states in Brazil.

- At São Paulo's state court, there is a processing time of **2 years and 9 months**, while at TRF3 (São Paulo's Federal Court) the processing time is **6 years and 8 months**.

- At Rio de Janeiro's state court, lawsuits take an average of **4 years and 6 months**, while at TRF2 (Rio de Janeiro's Federal Court), the processing time is **2 years and 9 months**.

- Distrito Federal state court has an average processing time of **4 years and 11 months** for its lawsuits, and at TRF1 (Distrito Federal Federal Court) the processing time is **2 years and 6 months**.

- Obligation.

Fastest and slowest Courts

- In State Courts, the Amapá State Court has the shortest average processing time for pending cases **(1 year and 10 months)**, while the Bahia and the Distrito Federal State Courts have the longest processing times for pending cases (4 years and 11 months).

- In Federal Courts, the Federal Court of Appeals of the 5th Region has the shortest average processing time for pending cases **(2 years and 5 months)**, while the Federal Court of Appeals of the 3rd Region has the longest processing time for pending cases **(6 years and 8 months)**.

ARBITRATION.

TozziniFreire.

INTRODUCTION

/MAIN ASPECTS OF ARBITRATION IN BRAZIL

- Alternative method of dispute resolution widely chosen in Brazil;
- Brazilian Arbitration Act dated of 1996 (Federal Law No. 9,307/1996) and constitutionally confirmed in 2001 (SE No. 5,206);
- International and domestic arbitrations are treated equally by the legislation;
- The arbitral award will produce the same effects of a court order and will be submitted to a similar enforcement proceeding;
- Judicial appeals (setting-aside procedures) are available on a very limited basis: only violations to due process or disrespects to the arbitration agreement. No review of the merits is authorized;
- Arbitration is highly supported by the Brazilian Courts, both in measures in aid of arbitrations and when enforcing arbitration clauses/ arbitration awards;
- Advantages in comparison to courts: (i) confidentiality available; (ii) faster outcome; (iii) choice of Law; (iv) flexible procedure (designed by the Parties), (v) disputes decided by experts; (iv) friendly atmosphere (more room for settlement).

OVERVIEW

ADVANTAGES

Faster, Smarter, Better.

Familiarity of foreign investors with this mechanism of dispute resolution

Shorter timeframe than judicial courts

Confidentiality guaranteed

Highly specialized arbitrators who provide innovative and creative solutions

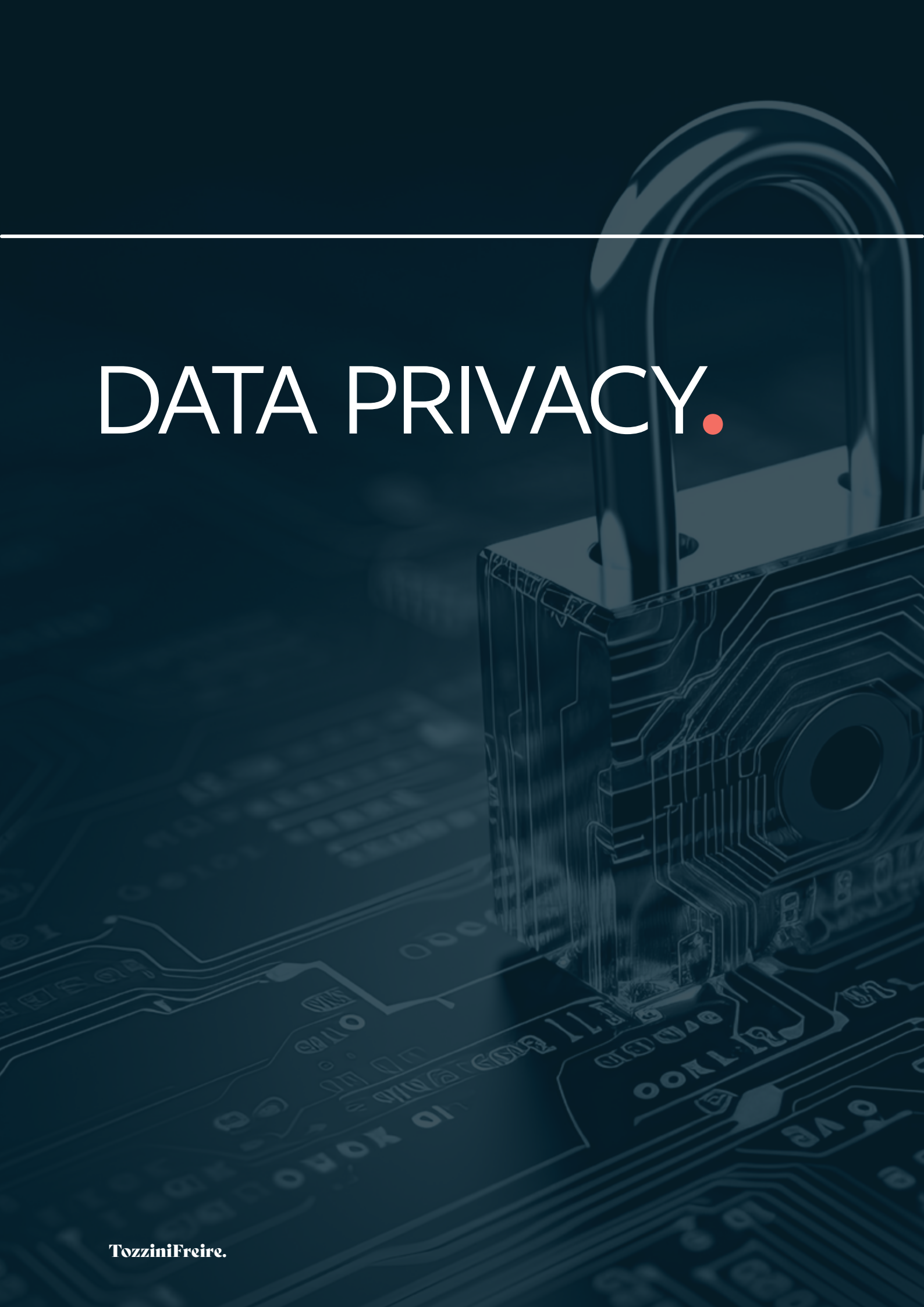
TIMELINE

The usual sequence of events in arbitration:

1. Arbitration Request
2. Answer
3. Arbitrators' Appointment
4. Terms of Reference
5. Merits Submissions
6. Merits Hearing
7. Final Written Arguments
8. Final Arbitral Award

Average time until completion: between 1,5 years and 4 years, depending on the complexity of the evidence produced (e.g., expert examinations tend to be significantly time consuming).

DATA PRIVACY.



TozziniFreire.

INTRODUCTION

The Brazilian General Data Protection Law (LGPD) adopts the following main definitions:

ANPD

The Brazilian Data Protection Authority, i.e., the body of the public administration responsible for supervising, implementing, and monitoring the compliance with the LGPD in all national territory.

DATA PROTECTION OFFICER (DPO)

The person (either legal or entity) named by the controller and processor to act as a channel of communication between the controller, the data subjects, and the ANPD.

INTERNATIONAL DATA TRANSFER

The transfer of personal data to a foreign country or to an international entity of which the country is a member.

PERSONAL DATA

The information related to an identified or identifiable natural person.

SENSITIVE PERSONAL DATA

The personal data on racial or ethnic origin, religious belief, public opinion, affiliation to union or religious, philosophical or political organization, data relating to health or sex life, genetic or biometric data, whenever related to a natural person.

ANONYMIZED DATA

Data related to a data subject who cannot be identified, considering the use of reasonable technical means available at the time of its processing.

PROCESSING

Any operation carried out with personal data, such as those relating to the data collection, use, access, reproduction, storage or elimination.

PROCESSING AGENTS

The controller (individual or legal entity in charge of collecting personal data and making decisions about the processing of personal data) and the processor (individual or legal entity that processes personal data on behalf of the controller).

DATA SUBJECT

The natural person to whom the personal data being processed relates.

OVER**VIEW**

PRINCIPLES

Article 6 of the LGPD sets forth the principles of data protection, which serve as guidelines for the application of the law. Data processing activities shall be conducted in good faith and be subject to the following principles:

Purpose limitation

The processing shall be conducted for legitimate, specific, and explicit purposes of which the data subject is informed, with no possibility of subsequent processing that is incompatible with these purposes.

Adequacy

The processing must be compatible with the purposes communicated to the data subject, in accordance with the context of the processing.

Necessity

The processing shall be limited to the minimum necessary to achieve its purposes, ensuring that the data collected is relevant, proportional, and non-excessive in relation to those purposes.

Free access

Data subjects shall be guaranteed facilitated and free access to information regarding the form and duration of processing, as well as the integrity of their personal data.

Data quality

Data subjects shall be assured of the accuracy, clarity, relevance, and updating of their data, in accordance with the needs for achieving the purposes of processing.

Transparency

Data subjects shall receive clear, precise, and easily accessible information about the processing activities and the respective processing agents, subject to commercial and industrial secrecy.

Security

Technical and administrative measures must be implemented to protect personal data from unauthorized access and accidental or unlawful destruction, loss, alteration, communication, or dissemination.

Prevention

Measures should be adopted to prevent the occurrence of damages resulting from the processing of personal data.

Nondiscrimination

Processing shall not be conducted for unlawful or abusive discriminatory purposes.

Accountability

The data processing agent must demonstrate the implementation of effective measures that ensure compliance with personal data protection regulations, including the efficacy of such measures.

Legal Bases

Every data processing activity must be supported by one of the legal bases set forth in the LGPD to be deemed lawful. Please find below a list of the most recurrent legal bases:

Data subject consent

Free, informed, and unambiguous manifestation by which the data subject agrees to the processing of their personal data for a specific purpose. All processing purposes must be informed in a clear, detailed, and separate manner, and the controller has the burden of proving that consent was provided in accordance with the law.

Legal or regulatory obligation

Compliance with a legal or regulatory obligation.

Legitimate interest

The controller or third party interest is legitimate and necessary to the execution of its business, except in case of prevailing data subject's rights and freedoms that require personal data protection.

Contractual relationship

Whenever necessary for the performance of agreements or preliminary procedures relating to agreements to which the data subject is a party, at the request of the data subject. Data must be instrumentally necessary for the conclusion of the agreement.

Regular exercise of rights

Regular exercise of rights, including in lawsuits, administrative or arbitration proceedings.

Protection of life and health

For the protection of the life or physical safety of data subjects or third parties, and also in procedures carried out by health professionals or by sanitary entities.

Credit protection

Use of personal data for credit protection is possible, considering the nature of the public interest with respect to the credit system.

PROCESSING AGENTS

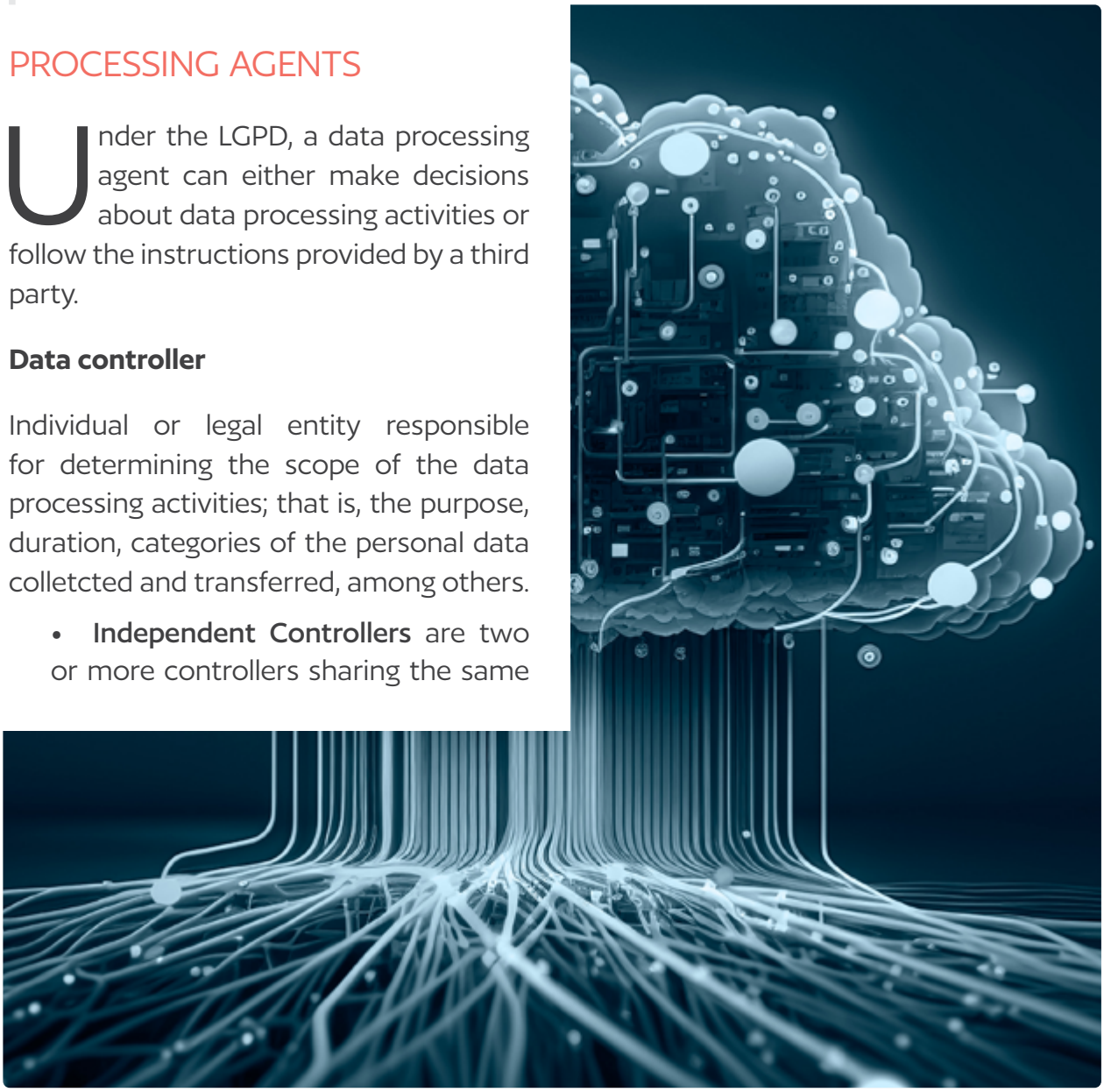
Under the LGPD, a data processing agent can either make decisions about data processing activities or follow the instructions provided by a third party.

Data controller

Individual or legal entity responsible for determining the scope of the data processing activities; that is, the purpose, duration, categories of the personal data colletcted and transferred, among others.

- **Independent Controllers** are two or more controllers sharing the same database, but processing such data for different and independent purposes.

- **Joint Controllers** are two or more controllers sharing the same database and processing the same data for correlated purposes.



Data processor

Individual or legal entity that processes personal data on behalf of the data controller (e.g. cloud service providers). The LGPD does not impose the execution of data processing agreements between data controllers and data processors, but the ANPD recommends that the parties agree on their duties and responsibilities.

- Employees, contractors or individuals who are part of a company that acts as a data processing agent are not, by themselves, data processing agents.

- In other words, employees do not act as data processors acting on behalf of their managers, and managers are not data controllers.

DATA PROTECTION OFFICER

In addition to serving as a communication channel, as mentioned above, the DPO is also responsible for guiding the employees and contractors of the data processing agent regarding the practices to be adopted concerning personal data protection.

Also, in mid-2024, the ANPD published the Resolution CD/ANPD No. 18/2024, which established the "Regulation on the Role of the Data Protection Officer (DPO)". This resolution introduced a series of rules that data processing agents must observe when appointing the DPO. The main points are highlighted as follows:

Who must appoint a DPO

The appointment is mandatory for the controller but optional — and considered a best practice policy — for the processor.

Who can be appointed as DPO

The DPO can be a natural person, such as an employee of the organization, or a legal entity contracted for this purpose. It is important that the DPO perform their duties autonomously in order to avoid a possible conflict of interest.

Exemption from appointment

There is, exceptionally, a possibility of exemption from the appointment for certain small data processing agents. The appointment remains mandatory for small agents that: (i) carry out high-risk processing; (ii) generate net revenue greater than BRL 360,000 and equal to or less than BRL 4,800,000 in each calendar year, or, in the case of startups, have gross revenue of up to BRL 16,000,000 in the previous calendar year or BRL 1,333,334 multiplied by the number of months of activity in the previous calendar year when less than 12 (twelve) months, regardless of the adopted corporate form; or (iii) belong to a factual or legal economic group whose global revenue exceeds these limits.

How to formalize the appointment

The appointment of the DPO must be carried out through a formal act of the data processing agent, specifying the forms of action and the activities to be performed. The appointment act must be signed by the competent authority, in accordance with the provisions of the contract or the company's bylaws.

Disclosure of information

The identity and contact information of the DPO must be published clearly and objectively on the website of the data processing agent.

INTERNATIONAL TRANSFER OF DATA

The LGPD stipulates that the international transfer of personal data must ensure that data sent to other countries or international organizations is adequately protected. Additionally, the regulation states that such transfers can only occur under specific conditions, such as to countries that guarantee an adequate level of protection or through the use of standard contractual clauses approved by the ANPD.

In mid-2024, the ANPD published Resolution CD/ANPD No. 19/2024, which regulates the articles of the LGPD concerning international data transfers. This regulation addresses standard contractual clauses, equivalent standard contractual clauses, specific contractual clauses, global corporate norms, and adequacy decisions.

The resolution aims to ensure safe and transparent international transfers of personal data, aligned with fundamental rights and legal security, while promoting economic development and protecting the rights of data subjects.

Regarding the mechanisms of transfer addressed in the aforementioned Resolution, we have the following:

Adequacy decisions

These are decisions issued by the ANPD that recognize certain countries or international organizations as having a level of personal data protection equivalent to that required by Brazilian legislation. Once an adequacy decision is issued, international data transfers to these countries or organizations can occur without the need for additional transfer mechanisms. As of June 2025, no adequacy decisions have been issued by the ANPD.

Standard contractual clauses

These are predefined contractual clauses established by the ANPD that can be incorporated into existing contracts. They set minimum guarantees to ensure that even in countries where data protection regimes differ from Brazil, personal data remains protected according to LGPD standards. These clauses must be implemented without modifications (as per Annex II of the Regulation) by August 2025.

Equivalent standard contractual clauses

These refer to standard contractual clauses approved by foreign countries or international organizations that may be recognized by the ANPD as equivalent to Brazilian standard contractual clauses. Once deemed equivalent and subject to any conditions set by the ANPD, data processing agents can use these clauses in their international data transfers without needing to resort to the standard contractual clauses from Annex II of the Regulation.

Specific contractual clauses

These can be used in exceptional situations where it is demonstrably unfeasible to utilize standard contractual clauses. These clauses must provide a level of data protection equivalent to that guaranteed by national standard contractual clauses and need to be tailored to the specific circumstances of particular transfer operations. Prior approval by the ANPD is required to validate the use of this mechanism.

Global corporate norms

These refer to a set of internal rules adopted by organizations within the same group or business conglomerate to regulate the international transfer of personal data among their various entities. These norms, which must be approved by the ANPD, ensure that all companies in the group, regardless of the jurisdiction in which they operate, comply with the level of data protection required by the LGPD. These norms are particularly useful for companies operating in multiple countries that wish to maintain a uniform approach to personal data protection in their international operations.

INTELLECTUAL PROPERTY.

BACK TO INDEX

INTRODUCTION

Intellectual Property assets include, for example, trademarks, patents, industrial designs, geographical indications, non-patentable knowledge, copyrights and related rights, software, plant variety, domain names, trade secrets, and trade dress.

Protection granted by Brazilian laws: (i) Brazilian Federal Constitution – Section 5th XXIX; (ii) Industrial Property Law No. 9,279/1996 (LPI); (iii) Copyrights Law No. 9,610/1998; (iv) Software Law No. 9,609/1998. There are also other Brazilian specific laws that protect R&D activities and plant varieties.

INPI: Instituto Nacional da Propriedade Industrial (Brazilian Patent and Trademark Office) is the entity responsible for registering trademarks, patents, software, technology agreements, industrial designs, and geographical indications.

IP Treaties: Brazil is a signatory of the most important international regulatory treaties related to IP protections, such as the Trade Related Aspects of Intellectual Property Rights (TRIPS) of the Uruguay Round of the General Agreement on Tariffs and Trade, the Paris Convention, the Madrid Protocol, Patent Cooperation Treaty (PCT), and the Berne Convention.

OVER**VIEW**

/TRADEMARKS

Trademark is defined by law as a visually perceptive distinctive sign that serves to identify the origin of goods, thereby avoiding confusion, deception or mistake as to origin. Brazil adopts the **first-to-file system** and trademark rights may only be obtained through registration.

PRESENTATION

Word, composite, figurative, tridimensional, position.

NATURE

Products, services, collective, certification.

PROTECTION TERM

10 years renewable for equal and successive periods.

Territorial Principle

Protection is granted where the trademark is registered – Brazilian territory.

First to File

Once the trademark is filed in Brazil, the owner may take the appropriate measures to protect the material integrity and reputation of the trademark, but the exclusive right to exploit and use the trademark is with the registration.

EXCEPTIONS

- Notorious Trademarks.
- Well-known Trademarks.
- Prior use in good faith (6 months).

/FILING MAIN REQUIREMENTS

Priority: Owners of trademarks that have been registered in countries which are signatories to the Paris Convention may also claim priority rights when applying for a trademark in Brazil. The priority right term regarding trademarks is six months from the filing of the foreign trademark application. A proof of the prior foreign application is required in order to validate the priority right and must be presented within four months after filing the Brazilian application.

Trademark infringement: is both a criminal and a civil offense in Brazil. Anyone who, without authorization, reproduces or imitates a registered trademark so as to cause confusion or who alters a trademark already on the market may be subject to a fine or punished by imprisonment for up to one year. Under the Brazilian Civil Procedure Code, it is also possible to obtain various remedies, such as seizure, injunction and preliminary relief, from the civil courts.

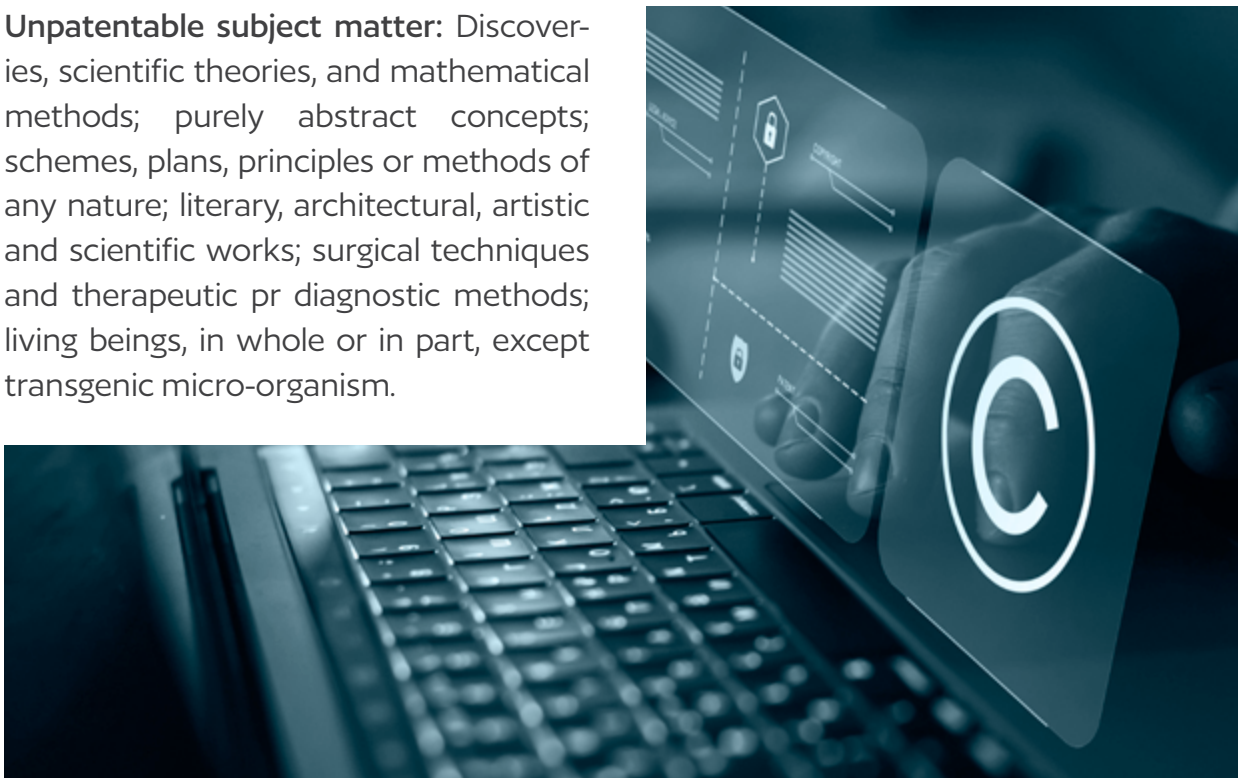
/PATENT AND UTILITY MODEL

Patent: is a title of temporary exclusive ownership of an invention or utility model, granted by governmental authorities to inventors, authors or other individuals or entities that hold rights over the invention.

Patent of Invention: "Products or processes that meet the requirements of **inventive activity, novelty and industrial application**".

Utility Model: Susceptible to industrial application, it presents a new shape or arrangement and involves an inventive act that results in a functional improvement in its use or manufacture.

Unpatentable subject matter: Discoveries, scientific theories, and mathematical methods; purely abstract concepts; schemes, plans, principles or methods of any nature; literary, architectural, artistic and scientific works; surgical techniques and therapeutic pr diagnostic methods; living beings, in whole or in part, except transgenic micro-organism.



OWNERSHIP

- To be valid in Brazil, a patent must be filed with the INPI and, as a general rule, the contents of the patent should not be published in other countries before the filing of an application in Brazil.
- The LPI establishes that in the absence of proof to the contrary, the applicant is presumed to have the right to obtain a patent.
- Patent may be applied for by the inventor, its heirs or successors.
- A patent will be granted after the application is allowed and, after proving payment of the corresponding fee, the respective letters-patent will be issued.
- Patents related to pharmaceutical products or processes depend on the prior approval of Agência Nacional de Viligância Sanitária (ANVISA, the Brazilian sanitary surveillance agency).

PROTECTION TERM

- Invention: 20 years from the filing date.
- Utility Model: 15 years from the filing date.

PROTECTION GRANTED

A patent entitles its owner to prevent third parties from manufacturing, using, offering for sale, selling or importing , without the owner's consent: (i) a product that is the subject of the patent; or (ii) a process or product directly obtained by a patented process.

/INDUSTRIAL DESIGNS

Industrial design is the ornamental plastic form of an object or the ornamental set of lines and colors that can be applied to a product, providing a new and original visual result in its external configuration and that can serve as a type of industrial manufacture.

- **Protection term:** 10 years from the filing date before INPI, extendable for three successive period of 5 years each.

- INPI will not consider the **novelty or product applicability** of an industrial design **upon registration**, unless specifically requested to do so by the applicant. The registration is automatically granted upon publication of the grant of an industrial design registration in the INPI's Official Gazette.

- Brazil is a signatory of the Hague Agreement on the Industrial Designs international registration.

- If the owner of an industrial design that has already been registered in a country signatory to the Paris Convention, it is possible to claim **priority rights** when applying for registration of the same industrial design before the INPI, in Brazil.

- **The priority right's term** for industrial design **is six months from the first filing of an industrial design application.**

- The registration of an industrial design lacking novelty or otherwise granted without compliance with legal requirements may be cancelled (i) administratively ex officio or at the request of an interested party within five years or (ii) by the courts at any time during the registration term.

- Infringement of industrial design rights is also punishable by up to one year of imprisonment. Industrial design rights may be licensed with or without exclusivity and may be assigned in whole or in part.

EXAMPLES OF INDUSTRIAL DESIGNS:

DI 6902513-4

BR 30 2020 001067 1

DI 5501412-7

/TRADE SECRETS AND TRADE DRESS

Trade Secrets

Trade secrets are IP rights on confidential information (e.g. practice, process, formula, method, etc.) which may be sold or licensed. They are protected under LPI in provisions covering unfair competition, which impose a criminal sanction of up to one year detention or a fine for the unauthorized disclosure, exploitation or use of knowledge, information or confidential data used in industry, commerce or services. Exceptions include items of public knowledge or that are evident to a person with technical knowledge of the matter, which were accessed through a contractual or employment relationship.

Trade secret protection **does not require registration** and is not subject to any time limitation. The protection accorded to trade secrets will continue as long as its owner can preserve secrecy. The disadvantage of a trade secret, however, is that once it is generally publicly disclosed it will no longer be a secret and anyone may have access to it.

Trade Dress

Trade dress is in fact **not a regulated figure in the Brazilian IP law**, however, there are many case laws that address the trade-dress figure and recognizes its protection based on:

- Our Brazilian Federal Constitution (article 5, XXIX), regarding the protection provided for industrial creations, the ownership of trademarks, company names and other distinctive signs;
- **Unfair competition**, which is a crime provided by our Brazilian IP Law (article 195, III); and
- **Copyrights** infringement.

Although it is not possible to register a trade dress before INPI, we have assisted our clients with many alternative measures to increase the protection of clients' trade dress.

COPYRIGHTS

- Copyright **protection arises from the creation** of the work itself. The Brazilian Copyright Law (Law No. 9,610/1998) protects original works of authorship, expressed by any means or fixed in any tangible medium of expression.

- Following the Berne Convention, according to which **registration of copyrights in Brazil is optional** and therefore **not necessary for the enforcement** of rights against third parties. In addition, copyright license agreements do not have to be registered before the INPI in order to enable remittance of royalties abroad.

- The first **owner is the author** who is the individual or entity (in cases provided for by law) who creates a literary, artistic or scientific work and, in case of eventual dispute, is able to **demonstrate the authorship of its work and its creation date**.

- The copyright system in Brazil protects both **moral and economic rights.** Moral rights are not transferable and cannot be waived by the author. Economic rights are protected for seventy years counted from January 1st of the year following the author's death. For copyrights related to works of an unidentified author, photographs and/or audiovisual work, the term is counted from January 1st following the first publication.

SOFTWARE

- Computer Software is protected under the Brazilian Software Law (Law No. 9,609/1998) and subsidiarily by the Brazilian Copyrights Law, since **it is considered a copyright work under Brazilian Laws**.

- In this sense, the registration **is optional** for the protection of software copyrights, although the INPI may perform the registration of computer programs.

- Software is protected for a term of **50 (fifty) years** following its publication or creation.

- Assuming that the software is original, **registration is not mandatory**, but advisable.

- Software license agreements are not registered by the INPI. However, **technology agreements involving software and transfer of the corresponding source code may be registered with the INPI** in order to be enforceable against third parties and enable the deductibility of royalties abroad (until January 1st, 2024, when the registration for purposes of this deductibility will no longer be necessary). For general software licenses and support services, the agreement is not registered with the INPI.

INSURANCE AND REINSURANCE.

INTRODUCTION

The Superintendence of Private Insurance (SUSEP) is the Brazilian (Re) Insurance regulator, which supervises the insurance and reinsurance markets, inspecting the companies authorized to operate with private insurance, capitalization, private pension (open pension plans) and reinsurance, including the incorporation, organization and operation of such companies.

SUSEP is also in charge of regulating the rules enacted by the National Council for Private Insurance (CNSP), the normative body of the insurance and reinsurance activities in Brazil, which sets forth the guidelines and rules of the governmental policy for private insurance, capitalization, private pension (open pension plans) and reinsurance.

OVERVIEW

LEGAL FRAMEWORK

(Re)Insurance matters are addressed within the framework of the insurance regulatory bodies (SUSEP and CNSP), the Brazilian Civil Code, and other sparse legislation.

On December 10, 2024, Law No. 15,040 was published, establishing rules for private insurance. Known as the Brazilian Insurance Act, the new framework will come into effect one year after its publication.The Brazilian Insurance Act consists of 134 articles, divided into the following topics:

- General Provisions
- Property Insurance
- Life and Physical Integrity Insurance
- Mandatory Insurance
- Statute of limitations
- Final and Temporary Provisions

Articles 757 to 802 of the Civil Code, which currently regulate the insurance contract, will be revoked starting December 2025, as well as item II of paragraph 1 of article 206 of the same law, in addition to articles 9 to 14 of Decree-Law No. 73, dated November 21, 1966, which establishes the Brazilian National System of Private Insurance.

MAIN PLAYERS

Insurance companies

Only companies incorporated as corporations (also known as "sociedade anônima" or "S.A.") are allowed to operate as an insurance company in Brazil, upon authorization granted by SUSEP.

The regulation establishes the minimum capital requirements for the granting of the authorization to operate and provisions to guarantee their operations, pursuant to the criteria set forth by the CNSP and further rules enacted by SUSEP.

REINSURANCE COMPANIES

Three types of reinsurers:

Local Reinsurer

Headquartered in Brazil, incorporated under the corporate form of a stock corporation. It must be subject to the same rules applicable to the insurance companies.

Admitted Reinsurer

Headquartered abroad, with a representation office in Brazil (which may be exercised directly, through its own office, or through duly contracted third party legal entities).

Occasional Reinsurer

Headquartered abroad, without a representation office in Brazil, duly registered as such before the SUSEP. Registration of companies headquartered in tax havens is prohibited.

Note: We have rules regarding limit of cessions and preferential offers.

Also, the regulatory sandbox was introduced by SUSEP and the segmentation of the insurance companies according to its size. In addition, the insurtechs has been increasing.

INSURANCE PRODUCTS

Large Risks X Consumer Risks

Property and Casualty Insurance Policy: divided into large risks and consumer risks

Large risks – Insurance policies purchased by legal entities that present, at the time of contracting and renewal, at least one of the following characteristics:

- maximum guarantee limit greater than BRL 15,000,000.00;
- total assets exceeding BRL 27,000,000.00, in the immediately preceding fiscal year; or
- gross annual revenue exceeding BRL 57,000,000.00, in the immediately preceding fiscal year. Oil/Petroleum Risks, Named Perils and Operational Risks, Global Banking, Aeronautical, Maritime and Nuclear Risks, as well as Internal Credit and Export Credit.

Life Insurance Policies: consumer risks and are treated in specific rules.

Note: Each line of insurance (non-life and life) has a specific rule that must be followed.

BEAR **IN MIND**

MANDATORY INSURANCE

Brazilian Legislation provides for some mandatory insurance, such as fire insurance, carrier's civil liability insurance, among others.

Distribution of insurance products

- Licensed insurance brokers – strongly regulated by SUSEP.
- Policyholders (estipulantes de seguros).
- Insurance representatives (representantes de seguros).
- Managing General Agent (MGA) – it is expected to be better regulated soon, but it is allowed by SUSEP.

HOT **TOPIC**

The main highlights are:

- Brazilian Insurance Act.
- Specific new SUSEP's rules about ESG criteria for insurance and reinsurance companies.
- Introduction of the Insurance Linked Securities (ILS) in the Brazilian (re)insurance market.
- New framework for Performance Bonds – several discussions regarding the step-in rights and the role of the insurance in new Bidding Law.
- Implementation of the Open Insurance and Development of the Insurtechs.
- New Players: mutual and insurance cooperatives.

REAL ESTATE.

TozziniFreire.

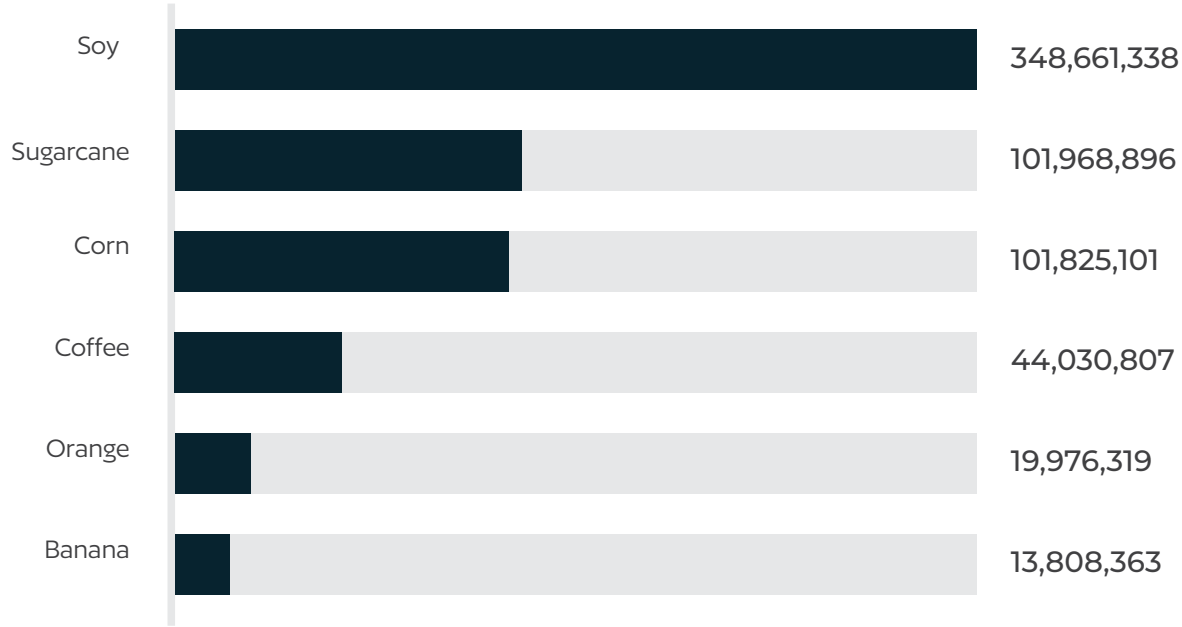
INTRODUCTION

RURAL PROPERTIES: AGRIBUSINESS OPPORTUNITIES

The core agribusiness activities take place in Brazilian rural properties. These are the main activities:

AGRICULTURE

Per Thousand Reais (BRL)



LIVESTOCK

Livestock Units

#1 – Chicken (1,577,570,401)
#2 – Beef (238,626,442)
#3 – Pork (42,997,536)

Source:
https://www.ibge.gov.br/indicadores.html

OVER**VIEW**

/RURAL PROPERTIES: LEASE AGREEMENTS (LAW No. 4,504/1964)

OCCUPANCY

Regarding the activities developed in rural properties, it should be mentioned a couple of legal provisions provided by Law No. 4,504/1964, which gives the guidelines for such properties' occupation under lease agreements.

1. TERM

Rural lease agreements' terms must terminate observing the date of completion of the respective crop taking place in the property under the lease. Also, it is **presumed a three (3)-year term period** for lease agreements which do not provide any specific term.

2. AUTOMATIC RENEWAL

The law establishes lessee's right to renew the respective lease agreement. Therefore, if lessor does not notify its intention of terminating the agreement in advance within the last six (6) months of the lease term, such term is automatically renewed.

3. OCCUPATION MAINTENANCE

The sale and registration or annotation of any lien or encumbrance in the property does not interrupt the validity of rural lease agreements, and the purchaser is subrogated to the rights and obligations of the seller.

/ RURAL PROPERTIES: FOREIGN INVESTMENT

OCCUPANCY

Brazilian legal provisions provide specific rules regarding the occupancy and development of activities in rural properties. Land regularization is "the adequacy of the property's condition to elements required by law". Please find bellow the main issues regarding regularization.

1. PROPER AREA-DESCRIPTION

- Precarious and old descriptions of rural properties in the respective Real Estate Record Files (**RERF**);
- It is common for the actual area to differ from the registered area on the **RERF**;
- Impediments to **(i)** the property's transfer to third parties **(ii)** guarantee financing operations.

2. OVERLAPPING LANDS

- Considering the historical occupation of the Brazilian inland and the precarious property descriptions, **there may be land conflicts between different parties that claim to own a certain rural piece of property;**
- It is usual to identify more than one registration for the same property, which violates the principle of uniqueness (one registration for each property).

3. CHAIN OF OWNERSHIP

- It is common to find inconsistencies in the property's chain of ownership if one analyzes it back in time (i.e., regarding old titles; former **RERF**);
- In other words, when an analysis of former properties (i.e., a larger area that was dismembered) is made, it may not be possible to check all the values.

BEAR **IN MIND**

/RESTRICTIONS TO LAND LEASE AND ACQUISITION BY FOREIGNERS

LEASE & ACQUISITION

Foreign investors should be aware of restrictions that are imposed by Brazil's legal framework regarding the purchase and lease (in Portuguese: *arrendamento*) of rural property.

Brazil's Legislative Branch has been discussing the purchase and lease of rural property by foreign companies and entities controlled by foreign capital for decades.

WHAT ARE THOSE RESTRICTIONS? HOW TO OVERCOME THEM?

According to Brazilian Federal **Laws No. 5,709/1971** and **No. 8,629/1993**, prior governmental approval is required for the direct or indirect purchase and lease of rural property by foreign entities or Brazilian entities controlled by foreign capital (including shared control).

Furthermore, government authorities may challenge the purchase and lease of rural property, even if such purchase or lease takes place indirectly through the acquisition of shares or membership interests. Failure to comply with the obligation to get prior approval from Brazilian authorities could ultimately lead purchases/leases to be considered null and void.

Nonetheless, there are legal structures that help foreigners who are willing to invest in Brazil not to face such restrictions. Those legal solutions are mainly based on (i) foreign companies' restructuring and (ii) different ways of occupancy, such as surface *in rem* rights.

/URBAN PROPERTIES: INVESTMENT ALTERNATIVES

INVESTMENTS

The Brazilian legal framework provides a variety of ways to invest in real estate. Please find bellow the main products currently available. Each one of these investments has a particular advantage (i.e., tax benefits).

FIIs

Real Estate Investment Funds (Resolutions CVM No. 472 and 175)

FIIs (**Fundos de Investimento Imobiliário**) are funds that promote return on capital through the purchase of real estate. The minimum monthly dividends established by law are **95%** of the profit obtained by the FII.

The credits generated by FIIs can be derived from leases, real estate loans and the sale of property in their portfolios. FIIs are traded on B3 (Brazilian Stock Exchange).

Regulatory Entity: Brazilian Securities and Exchange Commission

CRIs

Brazilian Certificates of Real Estate Receivables (Law No. 9.514/1997 and Resolution CVM No. 160)

CRIs (**Certificados de Recebíveis Imobiliários**) are securities backed by real estate receivables, which are very similar to mortgage pass-through securities issued in the United States. CRIs are made available through "securitization."

Securitizing is to convert debts a creditor is entitled to receive from its debtors into assets for investors through the sale of securities. CRIs are traded on B3 or through restricted issuances (professional and qualified investors). CRIs are exempt from income tax.

Brazilian Stock Exchange: B3

/URBAN PROPERTIES: COMMERCIAL LEASE AGREEMENTS (LAW No. 8,245/1991)

OCCUPANCY

Lease Law (Law No. 8,245/1991) sets out the general rules on lessor and lessee relationship during the lease of urban property. Such law has the nature of a public policy. Find bellow two (2) of its main provisions:

1. RENEWAL ACTION

Any lease agreement that has a term of at least five (5) years may be renewed for an equal period of time at the discretion of lessee, who must, however, file a suit (**Renewal Action**) with the court from one **(1) year to six (6) months before the term of the agreement expires**.

2. EFFECTIVENESS AND RIGHT OF REFUSAL CLAUSES

Registering the lease agreement with the competent Register of Deeds **allows lessee to keep all terms and conditions of its lease agreement** in full force and effect in the event of sale of the property under such agreement.

Lessee has the right of first refusal to purchase the leased real estate in the event of sale. For such purpose, lessee must express its interest in the purchase of the real estate within thirty (30) days from lessor's notification.

/URBAN PROPERTIES: REAL ESTATE LICENSES FOR OPERATIONAL PROPERTY

OCCUPANCY

According to the Brazilian Federal Constitution of 1988, states and municipalities should provide guidelines on the regulation of activities in properties. States establish their respective law concerning fire inspection works. On the other hand, municipalities are responsible for providing terms for business permits and certificates of occupancy of buildings.

1. MUNICIPAL BUSINESS PERMIT

Mandatory for all types of companies, such as commercial establishments, service providers, industries, whether they offer or not services to the public.

2. CERTIFICATE OF OCCUPANCY

An official document that states that a building is safe to use and may legally be used for a particular purpose. A certificate of occupancy is required for new inhabited commercial structures.

3. FIRE INSEPCTION CERTIFICATE

An official document that states that a building and its respective activities duly comply with safety standards provided by the competent Fire Department of the State.

ESG.

TozziniFreire.

INTRODUCTION

In Brazil, interest in and adoption of ESG (Environmental, Social and Governance) practices have grown significantly in recent years.

With growing concern about good sustainability practices, the topic of ESG (Environmental, Social and Governance) has become a key issue for companies and investors.

Many Brazilian companies are incorporating ESG elements into their business strategies. This includes taking environmental issues into account, such as reducing carbon emissions, sustainable use of natural resources and waste management.

In addition, social aspects, such as gender equality, diversity and inclusion, and the impact on the communities in which companies operate, are also considered. Proper governance, with an emphasis on transparency, ethics and corporate responsibility, is also a fundamental part of ESG practices.

The Brazilian financial market has shown growing interest in sustainable and responsible investments. Investors are looking for companies that adopt sound ESG practices, as they recognize the long-term benefits for both the environment and the companies' financial performance.

OVER**VIEW**

MAIN ESG REGULATIONS IN BRAZIL

Although there is no single specific ESG regulation in the country, there are several initiatives and guidelines that seek to promote these principles. Some examples are the environmental indices on the stock exchange, "B3 - Brasil, Bolsa, Balcão", such as the Corporate Sustainability Index and some resolutions of the Securities and Exchange Commission of Brazil.

Another important measure was Federal Law No. 13,303, enacted in 2016, which establishes guidelines and requirements related to risk management, corporate governance and compliance that must be followed by publicly traded companies, mixed-capital companies and, in some cases, their subsidiaries, for all levels of government.

It is also worth noting that in January 2022, the Brazilian Financial and Capital Markets Association (ANBIMA) published its self-regulatory rules and procedures for identifying sustainable investment funds. Criteria were defined to identify funds that aim for sustainable investment – they are called "IS" (Sustainable Investment Funds), i.e., those that consider environmental, social and/or governance factors in their investment analysis. The criteria must be complied with by both the fund manager and the fund in order for the investment funds to receive the SI identification.

The self-regulation rules apply to all fund managers who choose to (i) identify their investment funds as "Sustainable Investment Funds" in ANBIMA's database; and (ii) disclose in public materials that ESG issues are considered in their investment policies to achieve their

investment objectives. These rules seek to reduce the risk of "greenwashing" in the investment field. ESG disclosure requirements are aimed at publicly traded companies, which in Brazil take the form of joint stock companies.

BRAZILIAN CENTRAL BANK

In September 2021, the National Monetary Council and the Brazilian Central Bank launched a package of resolutions with new disclosure requirements for Social, Environmental and Climate Risks and Opportunities (Resolution BCB No. 139/2021, Resolution BCB No 151/2021, Normative Instruction BCB No. 153/2021, Normative Instruction BCB No. 222/2021 and Resolution CVM No. 59/2021).

BCB Resolution No. 139, published on September 15, 2021, provides for the annual disclosure of the Social, Environmental and Climate Risks and Opportunities Report (GRSAC Report) by the institutions authorized to operate by the BCB (Brazilian Central Bank) that fall under Segments 1, 2, 3 and 4.

The rule, inspired by the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD), aims to promote transparency and market discipline, in order to identify the level of commitment of institutions to a sustainable and inclusive economy, improve risk perception and make agents decisions more grounded. The Resolution came into effect on January 12, 2022, and the maximum period for disclosing the report observes the following schedule:

- 180 days in relation to the base date of December 2022; and
- 120 days in relation to the base date of December 2023.

BCB Resolution No. 151, published on June 10, 2021, provides for the obligation to send the BCB information related to the assessment of social, environmental and climate risks, addressed in Resolution No. 4,557 and CMN Resolution No. 4,945, by the other institutions authorized to operate by the Central Bank classified in Segments 1, 2, 3 or 4 – and the members of Segment 5 are exempted from sending this information.

Normative Instruction BCB No. 153/2021, published on September 16, 2021, establishes standardized tables for the purpose of publishing the Social, Environmental and Climate Risks and Opportunities Report (GRSAC Report). The rule came into effect on December 1, 2022.

Normative Instruction BCB No. 222/2021, published on December 28, 2021, establishes the procedures for sending information related to the social, environmental and climate risks of exposures in credit operations and securities, referred to BCB Resolution No. 151, previously mentioned.

BRAZILIAN SECURITIES AND EXCHANGE COMMISSION (CVM)

It is worth mentioning that the Brazilian Securities and Exchange Commission (CVM) has rules requiring the disclosure of certain ESG information for each publicly traded company registered with the CVM.

In that way, CVM Resolution No. 59 addresses the inclusion of ESG information in the reference form and expanded the ESG information that must be disclosed. In addition, publicly traded companies are required to annually disclose the report on the Brazilian Corporate Governance Code (Código Brasileiro de Governança Corporativa), developed in 2016, which requires companies to report whether certain standard governance practices are complied with, in a "comply or explain" model. In addition, the Brazilian Corporate Law requires the disclosure of certain information to shareholders that may fall into the ESG category.

SOCIAL AND BUSINESS & HUMAN RIGHTS REGULATION

The recent approval of European legislations, such as CSDDD (Corporate Sustainability Due Diligence Directive), EUDR (European Union Deforestation Regulation), EUFLR (European Union Forced Labor Regulation), among others, regarding Human Rights Due Diligence obligations to corporations is a landmark on the last years transformation of the global scenario of social and human rights regulation for business entities.

In Brazil, there are some ongoing initiatives aiming the development of a regulatory framework in this matter:

- **Drafting of a Brazilian National Policy on Human Rights and Business (Decree No. 11,772/2023):** establishes an Interministerial Working Group (IWG) to draft a proposal of the Brazilian National Policy on Human Rights and Business. The IWG aims to present the first draft of the National Policy in the beginning of 2025. TozziniFreire was consulted by the Federal Government as an expert in the field and has organized taskforces with companies to present recommendations and inputs to the Government.

- **Resolution No. 05/2020 of the Brazilian National Human Rights Council:** provides for national guidelines for a public policy on human rights and business. This Resolution is an important document for general guidance to the Government in the elaboration of the National Policy.

- **Bill of Law No. 572/2022:** aims to establish a Brazilian National Framework on Human Rights and Business, encompassing State and business obligations, including Human Rights Due Diligence. In partnership with the Brazilian branch of the WBCSD (World Business Council for Sustainable Development) called in Portuguese CEBDS *(Conselho Empresarial Brasileiro para o Desenvolvimento Sustentável)*, TozziniFreire has prepared a Technical Note on the Bill with points of attention and matters that need to be reviewed before the bill is submitted to voting by the Federal Congress. The Technical Note was personally handed to the most relevant congressional representatives.

Besides those specific Business & Human Rights regulatory initiatives, one of the most relevant dimensions of the human rights regulation for companies looking to stablish operations in Brazil concerns to indigenous people and traditional communities' rights, especially the right to free, prior and informed consent (FPIC).

Follow below the most important controversies regarding this topic in Brazil:

- **Indigenous Lands Temporal Framework:** In September 2023, the Brazilian Supreme Court declared unconstitutional the legal thesis of the existence of a temporal framework for demarcation of indigenous lands. One month later, in October 2023, the Law No. 14.701 was approved transforming the temporal framework legal thesis in norm. There are four current lawsuits at the Supreme Court challenging the legislation's constitutionality, while it remains in force.

- **Right to Free, Prior and Informed Consent (FPIC) of Indigenous People and Traditional Communities:** Established in the ILO (International Labor Organization) Convention No. 169, ratified by Brazil in 2004, but so far without internal regulation on its implementation. The Brazilian Supreme Court and the Federal Regional Courts consolidated the understanding that the right to FPIC exist despite the existence of demarcated land (or land recognized as traditional) and that, in general, it would consist in the right to effective consultation and not properly consent. The following aspects are still subject to debate:

a. When FPIC would be applicable: The Brazilian Interministerial Ordinance No. 60/2015 provides distance-based criteria for the need to conduct FPIC during the environmental licensing procedure. There are several court precedents determining the suspension of operations until the conduction of FPIC regardless of the distance and requiring specific studies on potential impacts to indigenous and traditional communities (such as *Quilombolas*) in the region.

b. Who should conduct FPIC: the legislation does not specify who should conduct FPIC – if public bodies, such as FUNAI (National Indigenous Foundation), or the company itself. The topic is controversial within public authorities, such as the Federal Prosecution Office and civil society, having repeatedly stated that it would not have the means to conduct all required FPICs.

c. The existence of general guidelines for the conduction of a FPI Consultation process: there is still no guidance from the Government regarding the adequate procedure for FPIC. Several indigenous and traditional communities have FPIC protocols, stating how they would like to be consulted.

Considering the scenario of legal uncertainty, it is of utmost importance for business to assess the presence of actual and potential adverse impacts to indigenous people and traditional communities located in the region, regardless of formally demarcated areas.

ENVIRONMENTAL LAW.

TozziniFreire.

INTRODUCTION

The legal protection of the environment in Brazil had expressive repercussion in the 1980s, with the enactment of the National Environmental Policy Act (Lei da Política Nacional do Meio Ambiente), the Public Civil Action Act (Lei da Ação Civil Pública) and the Federal Constitution and was followed by the enactment of several environmental regulations by the Legislative Branch.

The Environmental Protection Agencies, the Public Prosecutor's Office and Non-Governmental Organizations have been playing a more active role, resulting in the involvement of the Judiciary Branch, which has more frequently been ruling cases related to the enforcement of environmental law.

Society's demand for economic development taking into consideration the environmental and social aspects has resulted in the need for the adoption of Environmental, Social and Governance practices, in addition to the compliance with applicable legislation as key elements to achieve the sustainability of a company.

OVER**VIEW**

MAJOR FEDERAL LAWS

On the federal level, two statutes comprise the general structure of environmental protection:

- **National Environmental** Policy Act: established by Federal Law No. 6,938/81, provides for principles, guidelines, and mechanisms aimed at the preservation, improvement, and recovery of environmental quality.

- **Federal Law No. 9,605/1998**: sets forth criminal and administrative sanctions applicable to conducts and activities that are harmful to the environment. It describes conducts deemed to be crimes and establishes the applicable penalties. It also provides for the possibility to attribute criminal liability to a legal entity when a violation is committed as a result of a decision taken by its representative, or by one of its corporate bodies, in the interest or benefit of the company.

ENVIROMENTAL LIABILITY

In Brazil, environmental liability may occur, severally and cumulatively, at the following levels:

Civil Level

Civil liability arises from damages caused to the environment and aims at its recovery, which must occur through restoration to the previous status, compensation or indemnification.

Civil liability is **strict,** i.e., it occurs irrespective of fault from those that have caused the damage. However, it is necessary to

prove the actual damage and the chain of causation between such damage and the activity undertaken by the applicable party.

Administrative Level

Administrative liability occurs when any act or omission violates the legal rules on the use, enjoyment, promotion, protection and recovery of the environment.

It may subject the party to penalties, such as warning, fines ranging from BRL 50 to BRL 50 million, total or partial suspension of activities, suspension or cancellation of licenses, permits and authorizations, prohibition on contracting with the government, prohibition of tax benefits and/or on obtaining financing from official credit institutions, among others.

Criminal Level

Criminal liability occurs when an agent engages in a conduct classified as an environmental crime, subject to a public criminal action that may be filed by the Public Prosecutor's Office.

Attribution of criminal liability requires proof that the person accused of committing an environmental crime acted with negligence or willful misconduct.

BEAR **IN MIND**

ENVIROMENTAL PROTECTION INSTRUMENTS

Environmental Licensing

Environmental licensing encompasses, as a rule, three distinct and successive phases, as follows:

- **Preliminary License** – granted in the preliminary planning phase of the project or activity, approving its location and design, attesting to its environmental feasibility and establishing the basic requirements and conditions to be complied with in upcoming phases of implementation;
- **Installation License** – authorizes the installation of the project or activity according to the specifications contained in the approved plans, programs and projects, including the measures needed for environmental control and other conditions;
- **Operating License** – authorizes the operation of the project after certification of effective compliance with the provisions contained in previous licenses and provides the measures needed for environmental control and the conditions set for the project's operation.

Other environmental permits and documents may be required for certain activities, such as authorization for suppression of vegetation, authorization for management of fauna, and water grant for intervention in water courses.

CLIMATE CHANGE.

TozziniFreire.

INTRODUCTION

CARBON MARKET

Carbon Market is an **economic mechanism for achieving greenhouse gas emission reduction targets**, through the trade of greenhouse gas emission reductions or securities representing greenhouse **gas emission reductions** between agents determined to meet their targets.

The **agricultural sector** accounts for around **14%** of the world's anthropogenic greenhouse gas emissions, which can be reduced through the implementation of innovative practices and technologies, such as the use of organic matter in the production of fertilizers or even in the production of fuels for equipment and the development of practices to reduce deforestation and reforestation.

The potential development of such practices and technologies may enable the execution of projects that generate carbon credits which benefit the Brazilian agricultural sector.

MAIN CARBON PROJECTS OBJECTS

Hydroelectric Power

Wind Power

Biogas

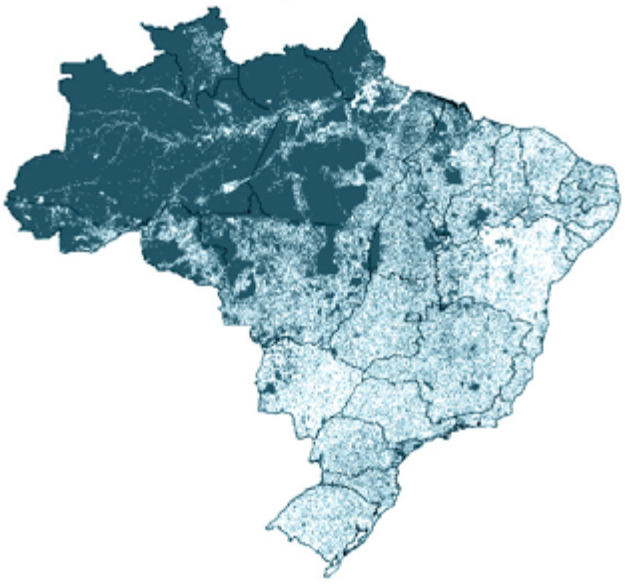
Reforesting / REDD+

OVER**VIEW**

BRAZILIAN CARBON MARKET: REDD+ PROJECTS

PRESERVATION

Regarding carbon projects, it is important to highlight those aimed at the **preservation of native vegetation**. According to EMBRAPA (2018), the Brazilian Agricultural Research Corporation, Brazilian native vegetation represents approx. **66.3%** of the country's total rural land areas:



Avoided Emissions (bndes.gov.br)

Brazil's rural land total area: **351.289** million hectares

REDD+ Carbon Projects

'**REDD**' stands for 'Reducing emissions from deforestation and forest degradation in developing countries. The '**+**' stands for additional forest-related activities that protect the climate, namely sustainable management of forests and the **conservation and enhancement of forest carbon stocks – not implemented, yet**.

GLOBAL AVOIDED EMISSIONS TABLE
June/2015-August/2023

Sectors	Tons of CO_2 in emissions avoided*	Which are equivalent to:
Native forests	499 thousand	Planting 3,133 soccer fields

Areas destined for the preservation of native vegetation in rural properties, areas of native vegetation protected by conservation units and indigenous lands and others.

/BRAZILIAN CARBON MARKET: REGULATED AND VOLUNTARY MARKET

Nowadays, only the Brazilian voluntary carbon market is in place. However, there is a big mobilization at the Brazilian National Congress for the **regulation of a Brazilian carbon market** based on the targets established in the Paris Agreement. The main purpose of the bills under discussion in Congress is to create a national carbon market system by providing the guidelines for both regulated and voluntary markets.

Carbon credits generated in Brazil can be negotiated globally. The voluntary market is global, and the standards used in the voluntary market are also global (i.e., Verified Carbon Standard and Gold Standard). **Any project may adopt such standards, and the carbon credits derived therefrom can be traded outside Brazil**.

1. REGULATED MARKETS

(a) CBE (*Cota Brasileira de Emissão*)

Assets to be traded in the potentially regulated cap-and-trade market to be set up in Brazil, the Sistema Brasileiro de Comércio de Emissões de Gases de Efeito Estufa (in English: ***Brazilan Greenhouse Gas Emissions Trading System)*** - SBCE.

(b) CRE (*Cetificado de Redução de Emissões*)

Certificates of Emission Reduction – tradable assets that represent the material reduction of greenhouse gas emissions under Article 6 of the Paris Agreement. Such credits are traded globally in voluntary markets, but **if they comply with all the standards and guidelines of SBCE, they may be traded in the Brazilian regulated market**.

2. VOLUNTARY MARKETS

CREs and carbon credits arising from projects that avoid, reduce, or remove greenhouse gases, considering the methodologies approved by Certification Standards (i.e., Verified Carbon Standard and Gold Standard).

/LEGAL FRAMEWORK

1. BILL No. 412/2022 (SENATE)

- Establishes the Brazilian Emission Reduction Market (Mercado Brasileiro de Redução de Emissões – MBRE) as the Brazilian mandatory carbon market system;

- The regulation works more like a regulatory benchmark, establishing the competent authority responsible for each scope of the system and the parameters that should be followed for each scope.

2. BILL No. 2,148/2015 (HOUSE OF REPRESENTATIVES)

- Establishes the Brazilian Emissions Trading System (*Sistema Brasileiro de Comércio de Emissões* – SBCE) as the Brazilian mandatory carbon market system;

- It amends Bill No. 528/2021 (House of Representatives).

3. PROPOSED AMENDMENT (AUGUST 21, 2023) (SENATE – LEILA BARROS)

- Establishes the Brazilian Emissions Trading System (Sistema Brasileiro de Comércio de Emissões – SBCE) as the Brazilian mandatory carbon market system (known nowadays as MBRE); mechanism for trading the system's assets;

- These assets (CBE and RCE) and the carbon credits are now considered securities. This measure aligns economic interests with environmental ones, encouraging, through the logic of the market, the reduction of greenhouse gas emissions.

- The system works like a "loyalty program" for companies that reduce pollution. Companies receive a certain number of quotas that correspond to the amount of GHG they can emit.

4. / REGULATED CARBON MARKET: (OTHER RELEVANT BILLS)

- Bill No. 4,028/2021.

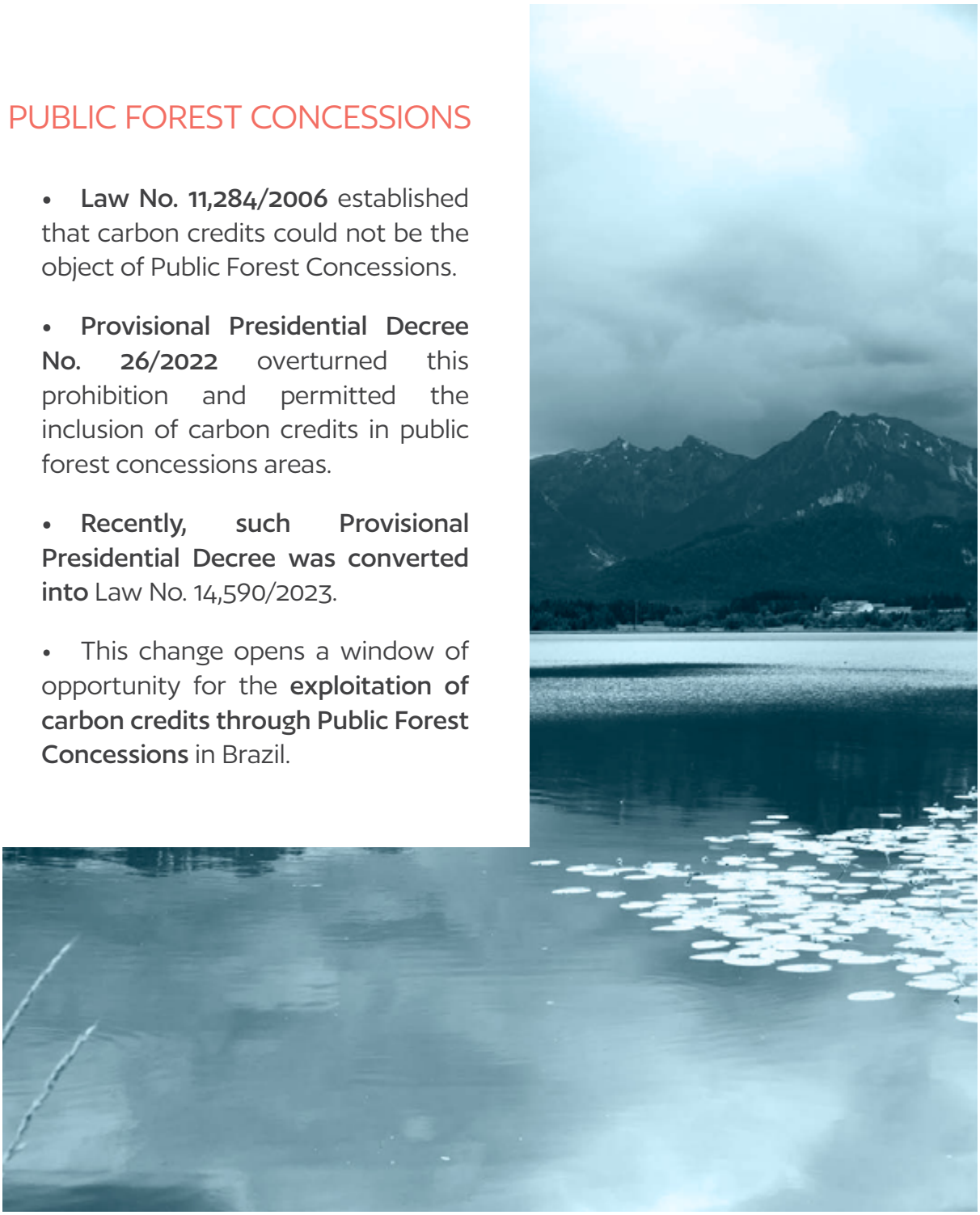
- Bill No. 2,122/2021.

- Bill No. 3,606/2021.

/BRAZILIAN CARBON MARKET: CURRENT LEGAL IMPLEMENTATION

PUBLIC FOREST CONCESSIONS

- **Law No. 11,284/2006** established that carbon credits could not be the object of Public Forest Concessions.
- **Provisional Presidential Decree No. 26/2022** overturned this prohibition and permitted the inclusion of carbon credits in public forest concessions areas.
- **Recently, such Provisional Presidential Decree was converted into** Law No. 14,590/2023.
- This change opens a window of opportunity for the **exploitation of carbon credits through Public Forest Concessions** in Brazil.



LIFE SCIENCES AND HEALTHCARE.

TozziniFreire.

INTRODUCTION

The **Life Sciences and Healthcare** sector in Brazil is **highly regulated**, encompassing all sorts of products that represent risks to health, hospital, clinical, and commercial activities, including the newest trends, such as the update of regulation for cannabis-based products for medicinal purposes, GLP-1 agonist medications, and updates to the regulation on drug pricing.

According to the International Bar Association (IBA), the **life sciences and healthcare sector:**

> "*Is concerned with those fields of science that involve the scientific study of living organisms, with a special focus on all aspects of healthcare law, including such areas as medicine law, intellectual property, biotech, bioethics, regulatory issues and scientific developments [...].*"

Available at: https://www.ibanet.org/unit/Law+and+Individual+Rights+Section/committee/Healthcare+and+Life+Sciences+Law+Committee/3089.

OVERVIEW

HEALTH SURVEILLANCE

In Brazil, the life sciences sector is directly subject to the **health surveillance regulation**.

Governmental authorities are competent to **intervene in the private sector** in relation to those that manufacture and circulate goods and render services of health interest, to **prevent risks and, thus, damage to human health**.

"*Health surveillance is understood as a range of actions capable of eliminating, reducing, or preventing risks to health and intervening in health issues caused by the environment, the production and circulation of goods and service provision of health interest.*"

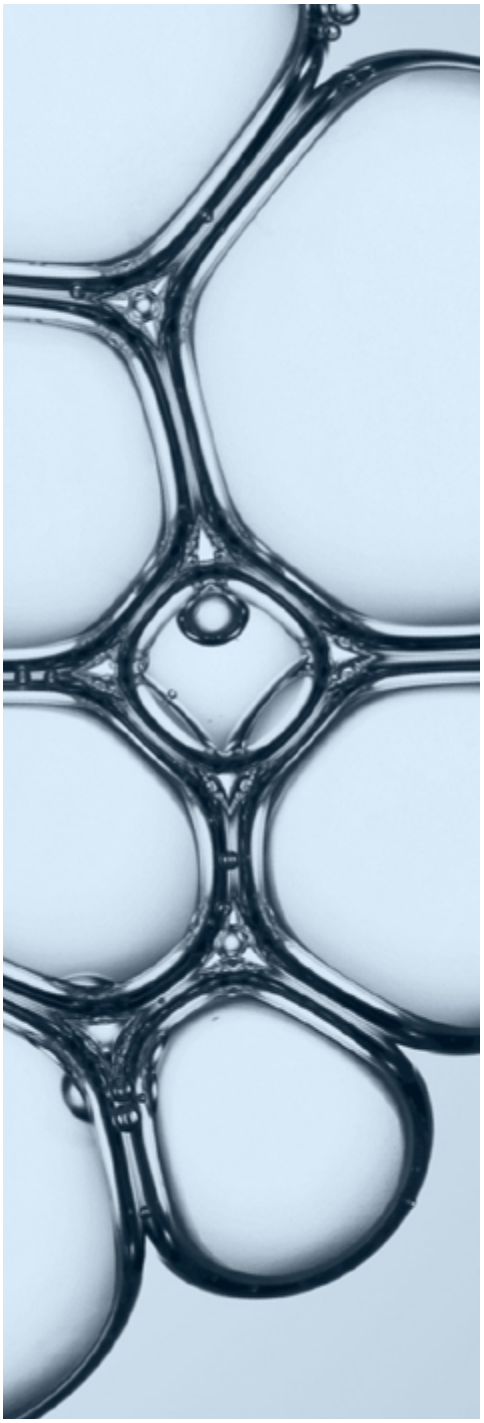
Federal Law No. 8,080/1990, Section 6, Paragraph 1.

BRAZIL'S NATIONAL HEALTH SURVEILLANCE AGENCY

One of the entities to which this duty/power has been assigned to is the Brazil's National Health Surveillance Agency (**ANVISA**), a regulatory agency linked to the Brazilian **Ministry of Health** (**MoH**), whose **institutional purpose** is to:

> "*ensure protection of the population's health, by exerting health control over the production and trade of products and services subject to health surveillance, including associated establishments, processes, inputs and technologies [...].*"

Federal Law No. 9,782/1999, Section 6.



BEAR **IN MIND**

HEALTH REQUIREMENTS

Health control can be expressed through a variety of actions. Mainly, health authorities require companies intending to perform activities of health interest (those that can cause damage to health) to obtain several permissions.

1. Company's operation permits/ licenses (on a federal and local level).
2. Products' market authorizations (*registro*) or (*notificação*).
3. Certification of good manufacturing practices (GMP certificate).
4. Definition of prices of medicines by the Drug Market Regulation Chamber (CMED).

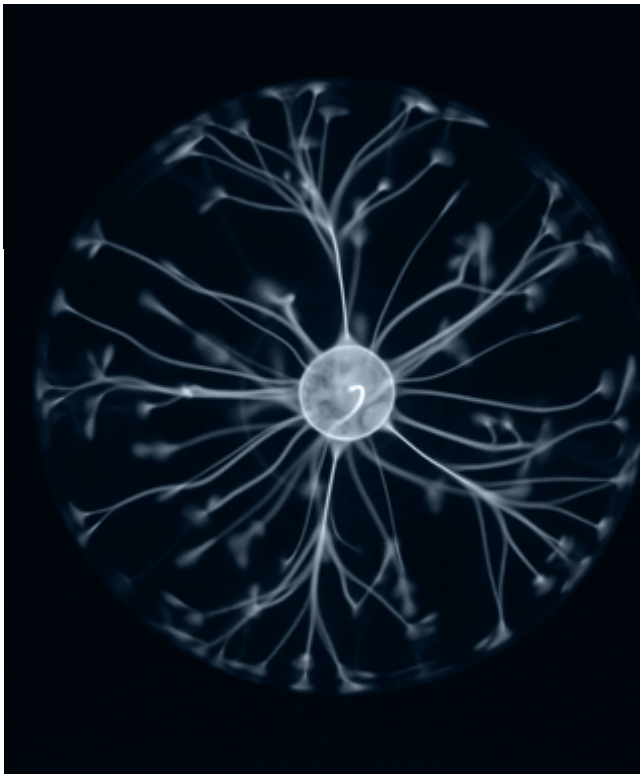
HEALTHCARE

- Although there is no legal definition of the term "**health assistance**," it is generally understood as the **services rendered by government or private organizations for the promotion, protection and recovery of human health.**

- Pursuant to **Law No. 8,080/1990**, government actions and services aimed at **protecting human health** are performed by federal, state, and municipal government entities that must ensure physical, mental and social welfare to the population. Private entities may participate in SUS (Brazil's health system) performing supplementary activities.

- Since 2015, the direct or indirect participation, including control, of companies or **foreign capital in health assistance has been allowed** in specific cases (e.g., operating general hospitals, general clinics, specialized clinics etc.).

- Because hospitals perform a broad range of activities that may represent **risks to public health and to the environment**, such establishments are **subject to several requirements prior and during their regular operation**, such as:



1. Appointing a **technical responsible party** and making sure **all professionals are in good standing** with the competent professional councils.

2. **Registering the entity** with the Regional Council of Medicine (CRM) and other professional councils.

3. Obtaining the corresponding **health licenses**.

4. **Registering with the National Database for Health Establishments** (CNES).

HOT **TOPIC**

The Brazilian regulation on health surveillance is very broad and, as products and technology continuously evolve, **ANVISA has been challenged to regulate new matters**.

Some of the trends and **latest matters in connection with health surveillance in Brazil are:**

1. Update of the regulation for cannabis-based products for medicinal purposes
2. New measures for the control of GLP-1 agonist medications.
3. Update of the regulation on pricing of new products and presentations.

RESTRUCTURING AND INSOLVENCY.

TozziniFreire.

INTRODUCTION

Liquidation proceedings must apply when a particular business is no longer viable. In this case, the applicable debtor (either an individual businessman or a company) is withdrawn from its activities and the existing assets are collected and sold. Any proceeds derived from the sale of assets are distributed among different creditors according to a preference order established by law. One of the goals of the liquidation proceedings is to preserve and maximize, to the fullest possible extent, the productive use of assets comprising the bankruptcy estate.

The mechanisms of court-supervised reorganization and out-of-court reorganization, which replaced the old arrangement with creditors (the previous court-relief system for debtors), are used when a particular business, although facing difficulties, is still viable and may overcome its financial crisis. In these situations, it is perceived that the preservation of going-concerns would ensure the survival of productive businesses and better serve the interests of employees, creditors, and society as a whole.

OVERVIEW

COURT-SUPERVISED REORGANIZATION

REQUIREMENTS

A court-supervised reorganization proceeding starts with the debtor's filing a petition with the court and can be voluntary only, i.e., creditors cannot file for a debtor's court-supervised reorganization neither can the court include, on its own initiative, a company that was not included by the debtor in its petition.

To be eligible to file for reorganization, the debtor cannot: (i) be bankrupt; (ii) have had another court-supervised reorganization petition granted within the past five years; and (iii) have been convicted for a bankruptcy crime.

The court-supervised reorganization petition must be filed before a court with competent jurisdiction, which is the one where the main center of interest of the company is located, which corresponds to the place where the debtor conducts the administration of its interests.

There are some companies, subject to specific regulation, that cannot file for court-supervised reorganization, such as government companies, financial institutions, insurance companies, among others.

MANAGEMENT OF THE DEBTOR COMPANY

In the course of a court-supervised reorganization proceeding, in principle there will be no change in management. Therefore, the managers of the debtor will keep their positions, although working under the supervision of the Creditors Committee (if any) and the Bankruptcy Trustee appointed by the court.

In certain circumstances, however, managers must be removed from their positions, including when (i) there are indicia of bankruptcy crimes, (ii) they have acted with willful misconduct or engaged in fraudulent schemes against creditors, (iii) they have been making personal expenditures that are not compatible with their income, or (iv) their removal is specified in the reorganization plan.

EFFECTS ON CREDITORS

The court-supervised reorganization binds all existing credits against the debtor at the time of the petition (pre-petition claims), even those undetermined or not yet matured or disputed, contingent, or unliquidated at the time of the filing, except for (i) tax and social security-related credits; (ii) credits related to forward foreign exchange agreements; and (iii) claims (a) arising from financial leases, (b) secured by fiduciary ownership ("alienação fiduciária"), (c) of owners or committed sellers of real estate whose respective agreements include an irrevocable and or irreversible provision, and (d) purchase agreements containing a title retention provision.

Once the debtor files for court-supervised reorganization, and provided that all legal requirements are met, the court will appoint a bankruptcy trustee and authorize the commencement of the proceeding, which triggers a stay period of 180 calendar days, extendable once for the same period, provided that the debtor did not contribute to cause the need of extension ("Stay Period"). During the Stay Period, most lawsuits filed against the debtor (including all execution proceedings) will be stayed. Assets deemed by the bankruptcy judge to be essential for debtor's activities cannot be sold or removed from debtor's place of business during the Stay Period.

ALTERNATIVE PLAN

If the plan is approved, the court will analyze the legality of the plan and, afterwards, confirm it, causing the novation of all credits subject to the court-supervised reorganization.

If the plan is rejected, the bankruptcy trustee must submit to voting a deadline of thirty (30) days for the creditors to file an alternative court-supervised reorganization plan ("Alternative Plan"). To be voted, the Alternative Plan presented by the creditors must contain a written statement of support from creditors representing over 25% of all claims subject to the proceeding or from at least 35% of the creditors that attended at the creditors meeting in which it was decided to submit the Alternative Plan.

If the plan presented by creditors is rejected and the creditors do not approve the filing of an alternative plan, the debtor will be adjudicated a bankrupt by the court.

ENDING OF THE PROCEEDING

After the court confirms the approved plan, the debtor remains under court-supervised reorganization for a period of up to two years under the supervision of the bankruptcy trustee and the court. Such period must be defined by the court.

In case of failure by the debtor to comply with the provisions of the plan during the supervision period, the court will order the debtor's liquidation.

After the supervision period, the court-supervised reorganization proceeding finishes, and in case of default by the debtor, creditors may either (i) request the debtor's liquidation; or (ii) file an execution proceeding against the debtor seeking payment pursuant to the conditions of the approved reorganization plan.

SALE OF ASSETS/DIP FINANCING

The reorganization plan may provide for a judicial sale of branches or individual going-concerns belonging to the debtor. The judicial sale may (i) take the form of an auction, (ii) be made through a competitive proceeding detailed in the reorganization plan proposals submitted in sealed envelopes, or (ii) through direct sale.

Investors may also provide DIP financing to the debtor company, obtained collateral and with payment priority in case of liquidation.

Once the judicial sale is performed by an auction or competitive proceeding, the relevant branch or going-concern will be free and clear of any liens and encumbrances, and the purchaser will not succeed the debtor with respect to any indebtedness. As a consequence, creditors from a debtor that is subject to court-supervised reorganization will not be able to claim any amounts from the purchasers of branches or going-concerns, and the corresponding assets will not be attached to satisfy their credits. Therefore, creditors will simply keep their original claims against the debtor.

APPROVAL OF THE REORGANIZATION PLAN

There are four classes of creditors in court-supervised reorganization proceedings for voting at a creditors' meeting: (i) class I – labor creditors; (ii) class II – secured creditors; (ii) class III – unsecured creditors; and (iv) class IV – micro and small businesses companies.

As a rule, the four classes of creditors must approve the plan by majority of the votes of creditors attending the meeting: labor and microenterprises or small businesses must approve the plan on a headcount basis, while secured and unsecured creditors must approve it both on a headcount and amount-of-claims basis.

The shareholders, affiliated companies, controllers, companies under control of the debtor, companies holding more than 10 per cent of the debtor's shares or companies in which the debtor holds more than 10 per cent cannot vote at a creditors' meeting.

If the plan is approved by (i) three out of the four classes of creditors; (ii) at least 50 per cent of the creditors attending the meeting, by number of claims; and (iii) a third of the creditors in the dissenting class, the court may approve the plan by the 'cram down' mechanism.

BEAR **IN MIND**

MAIN ASPECTS OF THE PROCEEDING

- As a rule, the debtor remains in possession of the assets and management of its activities. After the filing, the debtor cannot sell its non-current assets without the court's prior authorization, or the plan approved at the creditors' meeting foreseeing the sale of the assets.

- The role of the bankruptcy trustee is limited to supervising the proceeding, verifying claims and organizing the creditors' meeting.

- After the publication of the list of creditors in the Official Gazette, creditors may file a proof of claim to the bankruptcy trustee challenging the list (their own claim or other creditors' claims) within 15 days. After 45 days, the bankruptcy trustee must submit a new list, considering the proof of claims filed. After the publication of the new list, creditors may file a proof of claim before the Court within 10 days. The court will then render a final decision on the credit claim.

- The debtor must file its reorganization plan with the court within 60 days of the date of publication of the processing order in the Official Gazette, under penalty of adjudication of bankruptcy.

- The plan must provide the mechanisms the debtor company will use to recover, such as selling assets, corporate reorganization, debt payment in installments, among others.

- After the publication of a notice informing the creditors about the filing of the plan, creditors may file objections to the plan within 30 days. If there is no objection, which is unusual, the plan will be automatically approved. However, in case of an objection to the plan filed by any creditor, the court must convene a creditors' meeting to discuss and vote the plan. The debtor may modify or amend the plan even during the creditors' meeting.

TozziniFreire.

São Paulo / Porto Alegre / Campinas
/ Brasília / Rio de Janeiro

tozzinifreire.com.br