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Brazil's legal coming-of-age

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Last year's report on the changes to Brazil's legal framework focused on two laws, the New Brazilian Bankruptcy Law (NBBL) and Law no 11.232/05, which addressed the enforcement of judgments. The NBBL was significantly amended and the enforcement of judgments had an important development with Law no 11.382/06. Before addressing other matters that are of interest, we shall present the highlights of the amendment to the NBBL and the new Law no 11.382/06.

The New Brazilian Bankruptcy Law

The first judicial recovery proceeding in Brazil involved a Brazilian airline company and it was perceived that there was a loophole in the law that was promptly amended after the filing (hence the amendment was not effective in the first judicial recovery proceeding).

As originally drafted and enacted, the NBBL identified "mercantile" (i.e. capital or finance) leases as being outside the judicial recovery procedure, so the creditor party to such a lease could not exercise default remedies, notwithstanding the suspension of actions under the NBBL. The suspension of actions under the NBBL means that, once the judicial recovery proceeding is accepted, all the suits, enforcement of judgments of defined amount and the statute of limitations are halted for a period no longer than six months (stay-period).

Article 199 was then amended to provide that lease agreements (including aircraft lease agreements) are not subject to judicial recovery, according to the first part of Section 3 of Article 49, therefore allowing such creditors to

repossess the leased assets. Nevertheless, as with any other type of lease, the aircraft lease agreements are still subject to the first part of Section 3 of Article 49 of the NBBL, which provides that any leased assets cannot be repossessed from the debtor if they are essential to the economic activity of the company in judicial recovery.

In the absence of a Brazilian corollary to US Bankruptcy Code section 1110 in the first case and mindful of the possibility that the airline company could run out of money and be forced into liquidation, the US court devised an alternative solution – the so-called Contingency Return Plan. This requires the airline company to prepare a comprehensive schedule showing the location of each aircraft and engine, and their respective parts and documentation, and granting to the aircraft creditors a priority claim for damages incurred by them as a result of missing parts and missing or incomplete documentation.

The US court also directed the airline company to seek to have the Contingency Return Plan (including the priority claim) approved by the Brazilian court. The Brazilian court approved the plan, giving the aircraft creditors some form of special protection.

Regarding the NBBL, the Brazilian Superior Court of Justice has just ruled that, in respect of the judicial recovery procedure, the Brazilian bankruptcy court (in this case the First Corporations Court of Rio de Janeiro) is the sole court with jurisdiction to rule on all issues relating to the recovery plan.

Enforcement of judgments

Law no 11.232/05, which came into force in June 2006, was a very positive move since it addressed a key element of the so-called Brazil risk: the enforcement of judgments, especially those related to payments due to the creditor.

However, it did not stop there. New changes came along through Law no 11.382/06, enacted on December 6 2006 and in force from January 1 2007. The two laws have a similar aim, which is to expedite the enforcement of judgments, in particular the resulting payments. The way the legal framework was set forth provided debtors with mechanisms to be used as a delaying tactic. The result was that after lengthy procedures the creditors finally gave up their claims, stimulating the default.

The first law, enacted in 2005, dealt with the enforcement of judicial titles (títulos executivos judiciais), whereas the second law, enacted in 2006, dealt with the enforcement of judgments of non-judicial titles (títulos executivos extrajudiciais). In Brazil a creditor has its credit based on a judicial title or a non-judicial title. The former is the credit arising from a judicial decision and the latter is credit identified by law as such, i.e. a private instrument signed by two witnesses.

Now, the debtor of a non-judicial title and the debtor must be notified within three days to pay the amount due and, if they fail to comply, the creditor can request that an asset is seized and evaluated at the same time. Unlike previously, when the debtor indicated the asset to be seized (therefore indicating the most illiquid ones), now the creditor, when presenting its claim, can indicate the asset of the debtor to be seized including cash. In such a case, the judge can immediately proceed to an online seizure of any money deposited in bank accounts. Another effective measure is the possibility of substituting assets seized if they are illiquid.

On the debtor's side, there have been two important changes. The first is that the debtor can present a counterclaim within 15 days from notification without having to secure the payment. The second is that the opposition presented by the debtor does not halt the enforce-

ment procedure, which means that if the opposition was presented with the exclusive intent of stalling the procedure, this possibility is no longer available. Moreover, if the opposition is considered to be solely a delaying mechanism, a penalty is applied to the debtor consisting of an increase of 20% in the amount due.

If, on the one hand, the changes in the law benefit the creditor, on the other hand, it is admitted that the debtor solicit the payment of the amount owed in up to six instalments with an initial deposit representing 30%. These changes have yet to be tested, but an initial consequence has been an increase in the amount of credit available.

The development of the enforcement of judgments, together with the amendment to the NBBL, indicate a clear movement towards the creation of a friendly legal environment for the flow of resources, whether inside the country or abroad (inbound and outbound).

Capital markets

Recommended firms	
Tier 1	Machado Meyer Sendacz e Opice Mattos Filho Veiga Filho Marrey Jr e Quiroga
Tier 2	Pinheiro Neto
Tier 3	Barbosa Müssnich & Aragão Pinheiro Guimarães Souza Cescon Avedissian Barriue e Flesch White & Case*
Tier 4	Levy & Salomão Motta Fernandes Rocha
Tier 5	Demarest e Almeida Lefosse Tozzini Freire Teixeira e Silva

*Not qualified to practise locally.

Initial public offerings (IPOs) continue their trend of recent years, with companies choosing to go public to raise capital rather than borrowing from their banks. One leading firm had already completed more equity transactions in the first five months of 2007 than in all of 2006; another noted that the top three firms barely have the manpower to handle the flow of deals.

The largest Brazilian IPO was launched in March 2007, when meat packer JBS went public in a R\$1.6 billion (\$753 million) place-

ment. Companies that might have previously stayed out of the equity markets are now looking to raise capital by listing: mid-sized banks, an educational company, real-estate products companies, sugar and ethanol companies – all are examples of companies looking to tap this incredibly liquid market. Concerns about a market bubble have been aired, but most insiders believe this not to be the case.

While the debt markets appear to pale by comparison, they have been busy also. Bonds now tend to have longer maturities, and there are more perpetual bonds – bonds with no maturity date – than could have been imagined just a few years ago. Takeovers and mergers also continue to feed the bond market. In one of the larger deals of the year, AmBev used the proceeds from a billion-dollar debenture to finance its acquisition of Argentine brewers Quilmes, increasing the Brazilian company's market share throughout South America.

The two firms that are above the rest in this competitive environment are Machado Meyer and Mattos Filho; both were unanimously described by their peers to deserve top-tier rankings. Meanwhile, Souza Cescon is causing a stir by moving into a second-tier ranking alongside some veteran firms.

Machado Meyer Sendacz e Opice

Excellent. Outstanding. Professional. Brilliant. Whenever clients or competitors are talking about Machado Meyer Sendacz e Opice, these are the words most likely to be used. "Machado Meyer has a good name in the market, and an excellent reputation for capital markets work," said one banking sector client.

Led by José Roberto Opice, the Machado capital markets team has participated in some of Brazil's most important debt and equity deals this past year. The firm placed several offerings for Companhia Vale do Rio Doce (CVRD) last year. The first was a January 2006 notes offering worth \$1 billion by a JPMorgan Securities-led syndicate. Later in the year, CVRD made two further bond issuances, one worth \$1.25 billion and the other worth \$2.5 billion, both of which were placed by joint lead underwriters Credit Suisse Securities, UBS Securities, ABN Amro and Santander Investment Securities. The proceeds from these bond placements were used to pay back some of the \$14.6 billion loan taken out to acquire Canadian copper and nickel producer Inco.

On the creative side, Machado partner Nei Schilling Zelmanovits headed the team assisting Banco Bradesco and BB Banco de Investimento in a two-part debenture offering for Banco Nacional de Desenvolvimento Econômico e Social (BNDES). What made this interesting is that notoriously short-term

retail investors were the targets for these long-term bonds. The \$931 million offerings were sold through retail branches, and advertised on roadside billboards.

The equity side has been busy, of course. Machado client Terna Participações, the largest privately owned electricity transmission company in Brazil, raised R\$540 million in an October 2006 stock market listing. Due to the demand for IPOs, the deal was 20% oversubscribed, priced at the top of its range, and enabled Terna Group to use the capital to further expand its business operations.

MMX Mineração e Metálicos went public in a R\$1.12 billion offering on the São Paulo Stock Exchange that was placed by lead underwriters Banco Pactual and Banco de Investimentos Credit Suisse (Brasil); Machado Meyer advised the Brazilian banks in the deal. The lead underwriters then exercised a partial over-allotment option to place a further 110,000 shares, raising another R\$90 million.

Leading lawyers

José Roberto Opice
Carlos José Rolim de Mello
Nei Schilling Zelmanovits
Moshe Sendacz

Mattos Filho Veiga Filho Marrey Jr e Quiroga

"The two leading firms in capital markets are Mattos Filho and Machado Meyer." That's how a partner at a rival firm summarized the debt and equity practice areas. In Brazil, that seems to be the consensus – if it's not one, it's the other.

Clients agree. A banking director who uses many of the top firms for capital market transactions said: "Mattos Filho may be the best firm for equity work. They are experienced and very consistent." It is feedback like this that places Mattos Filho in the top tier alongside Machado Meyer.

The partner reaping the highest praise is Carlos Mello. He is described by a lawyer at one firm as "their big star". Another said: "One person doing really well at Mattos is Carlos Mello. He is involved in all the big deals, and deserves to be listed as one of the top lawyers."

Clients also admire the work of Sergio Spinelli Silva, who has been described as "an outstanding professional" by a long-standing client, while another said: "Sergio Spinelli's name needs no introduction."

But it is the whole Mattos Filho capital markets team that is the basis for the firm's top rank: "It is not only the presence of Sergio Spinelli Silva but that of the whole team, which is totally integrated," said one observer. "They seem to be traditionally the first choice for companies that go into capital market

transactions.” Indeed, the firm has been cited by international lawyers for its work in two IPOs: the listing of Brascan, and the firm’s contribution in helping take MMX Mineração e Metálico public.

Leading lawyers

Carlos Mello
Sergio Spinelli Silva

Pinheiro Neto

Along with Machado Meyer and Mattos Filho, the firm of Pinheiro Neto Advogados is very well respected among its peers. It is considered to have one of the largest presences in the capital markets, and remains one of the most competitive practices in Brazil.

One of the firm’s banking clients reported: “Pinheiro Neto is a very good firm, with the excellent Henrique Lang who does great international work in capital markets. He is a high-calibre individual.” Another client notes that Lang and Fernando Meira are “extremely respected names in the capital markets”.

High praise, but justified for the team that participated in the largest Brazilian IPO. The firm advised JBS – one of the largest beef producers in the world – in a March 2007 initial public offering. The R\$1.6 billion listing was placed on Bovespa’s Novo Mercado segment, which has the strictest disclosure rules. The proceeds from the offering gave JBS the capital to launch a takeover bid for the privately held American food company Swift Foods Co a few months later. Even before the IPO, Pinheiro Neto was working with JBS to prepare the company for its listing, placing a \$300 million notes offering which was used to help the meat processor restructure its finances.

GVT Holdings was another Pinheiro Neto client to achieve a first – the first telecoms company to be listed in Bovespa’s Novo Mercado. The February IPO had a value of R\$1.1 billion.

Another of the firm’s trendsetting clients was Banco PINE, which became the first mid-sized Brazilian bank to go public since 2001. This R\$571 million IPO was significant because it set the benchmark for other mid-sized banks to access the equity markets; several similarly-sized banks have gone public since PINE’s March 2007 listing.

A banking syndicate led by Banco Itaú, Banco Santander Brasil and Banco Votorantim hired Pinheiro Neto to place a R\$450 million debenture for Concessionária Anhanguera, one of Brazil’s largest highway concessionaires, in August 2006. The firm also represented another syndicate – including Banco Votorantim again – just three months later. This R\$425 million debenture was placed for Concessionária Ecovias, Brazil’s second-largest holder of highway concessions.

Leading lawyers

Alexandre Bertoldi
Daniela Sampaio Doria
Henrique Silva Godo Lang

Barbosa Müssnich & Aragão

Barbosa Müssnich & Aragão, one of Brazil’s most prestigious law firms, has been taking advantage of the activity in the capital markets to enhance its reputation. Although not the biggest firm, Barbosa Müssnich retains the respect of its clients, thanks to the experience and talent of its lawyers.

“Barbosa Müssnich is a firm whose size is compensated by the seniority of its members, particularly Paulo Cezar Aragão. With his incredible flair and knowledge, he may be the best capital markets lawyer in Brazil,” said a satisfied client.

The firm represented Iguatemi, a shopping mall operator, in consecutive equity and debt market transactions. First Iguatemi launched a \$249 million IPO on May 3 2007 which made it the first publicly traded company in Brazil’s shopping mall sector. This was followed the following month by the placement of a series of non-convertible debentures worth \$105 million.

In a June placement following the Iguatemi launch, Barbosa Müssnich advised BRMALLS Participações, another leading company in the Brazilian shopping center sector. A primary offering worth \$325 million was offered to the local markets and qualified institutional investors abroad.

Barbosa Müssnich also advised NET Serviços de Comunicação. The Brazilian pay television and broadband provider issued perpetual bonds worth \$150 million in Europe and Asia, as well as in the local markets. The international placement of the offering involved complex adaptation to the laws in each market. Additionally, this placement is an example of the perpetual bonds that have become popular in Brazil recently.

Leading lawyers

Francisco Antunes Maciel Müssnich
Paulo Cezar Aragão
Pedro Lanna Ribeiro
Luiz Antônio de Sampaio Campos

Pinheiro Guimarães

When a smaller firm is effusively praised by its competitors, it usually indicates the quality of the former’s work. It is instructive, then, to note one rival’s comments on the work of Pinheiro Guimarães: “They are a small family-run firm that is doing well. They have strong relationships with the banks and are successful at exploiting opportunities. Only their size keeps them from moving up.”

Being small has not kept companies like Banco UBS Pactual, Morgan Stanley, Banco Santander, Votorantim and CVRD (Companhia Vale do Rio Doce) from using the services of Pinheiro Guimarães. In fact, the firm participated in the three largest public debt offerings in Brazilian history last year, according to the CVM (the Brazilian stock exchange commission).

When CVRD needed to place R\$5.5 billion of non-convertible debentures – the largest public debt offering in Brazilian history – Pinheiro Guimarães was counselor to the Banco Santander-led syndicate. The firm also advised Banco Votorantim when the bank coordinated the R\$3.35 billion debenture for BV Leasing – Arrendamento Mercantile, the second-largest such placement. The offering of R\$2.06 billion of debentures for AmBev was the third-largest ever; Pinheiro Guimarães again advised the underwriting syndicate, including Citibank, Itaú and ABN Amro. All three deals were led by Francisco José Pinheiro Guimarães.

The firm was no slouch in the equity markets either. The team’s most significant work last year was representing Credit Suisse in the first Brazilian IPO of a container terminal operator. Santos-Brasil went public in an October 2006 offering that raised some R\$800 million.

Plínio Pinheiro Guimarães has also been singled out for compliments, described by a client as “truly excellent”. The client also went on to praise the firm as a whole: “Pinheiro Guimarães is a trusted adviser that delivers excellent results in no time at all. They are very adaptable, responding very quickly to changes in timeframes.”

Leading lawyers

Paola Pessoa
Francisco José Pinheiro Guimarães
Plínio Pinheiro Guimarães

White & Case

“They are a great firm, and Donald Baker is very good.” When it comes to White & Case, the international law firm continues to receive nothing but respect from the competition. Like all non-Brazilian firms, White & Case cannot practise Brazilian law, so placing the firm in a directory like this might seem odd. However, Baker and his firm *can* advise clients in Brazil – both international clients looking for opportunities in the country, and domestic companies looking to do business abroad. And this they do, with great success.

The seven-lawyer outfit has seen considerable increases in both equity and debt markets, as would be expected. White & Case represented joint syndicate leaders Credit Suisse, UBS,

ABN Amro and Santander in a Securities and Exchange Commission (SEC)-registered public offering of \$3.75 billion of debt securities by Companhia Vale do Rio Doce (CVRD), the world's largest iron ore mining company. The deal, completed in November 2006, is the largest-ever debt offering by a Latin American company in the global capital markets, and was also the first sale of securities by a Latin American issuer under the SEC's recently adopted automatic shelf registration rules.

White & Case also represented Credit Suisse Securities, acting as global coordinators and lead underwriter, in the first IPO of a managed healthcare provider. Medial Saúde concluded its \$302 million IPO in September 2006.

A third deal that found White & Case advising Credit Suisse was the \$460 million MMX Mineração e Metálicos IPO; with the Swiss bank acting as global coordinators of the underwriting syndicate. Shares were listed in the US, Canada, England, France, Italy, the Netherlands and Spain, besides the domestic listing on the São Paulo exchange.

When Braskem, Brazil's second-largest industrial company, needed an international placement of notes, Baker and his group advised on the deal. The \$275 million notes were sold in the US as a Rule 144A offering, and outside the US pursuant to Regulation S.

White & Case's domestic clientele includes Banco do Brasil, Braskem, Unibanco, and Votorantim Participações, while Credit Suisse and Deutsche Bank fall on the international side of the ledger.

Leading lawyers

Donald Baker

Banking

Recommended firms

Tier 1

Machado Meyer Sendacz e Opice
Pinheiro Neto

Tier 2

Barbosa Müssnich & Aragão
Mattos Filho Veiga Filho Marrey Jr e Quiroga
Pinheiro Guimarães
Souza Cescon Avedissian Barriue e Flesch
White & Case*

Tier 3

Demarest e Almeida
Levy & Salomão
Motta Fernandes Rocha
Tozzini Freire Teixeira e Silva
Trench Rossi e Watanabe

*Not qualified to practise locally.

Brazilian companies are less dependent on foreign capital than ever before, a trend that has been growing for the past several years. There is a lot of investment money coming into the country, but also a lot originating from domestic sources. Brazilian companies and underwriters are both increasingly moving towards more sophisticated products, beyond basic syndicate loans, such as the use of receivables. There is much more interest from the more mature companies in heading to the capital markets for raising money, where securitizations and public offerings are used to generate funds.

Still, the traditional lending market is busy enough. Small- and medium-sized companies have tapped banks for capital, and the volume of loans in the \$20 million to \$30 million range is unprecedented. The market has also stabilized – whereas a couple of years ago new lenders were selling on the basis of price alone, quality matters as much as pricing now.

The capital markets have had a positive effect on the banking sector and beyond. Companies that are preparing to go public are restructuring their finances, getting them in order to for the new listing. Banks that refinance these companies are adding rights redemption features to the loans. That way the banks can recoup even more money when those companies go public, leading to even more access to liquidity.

How liquid is this market? Consider that when Braskem needed a loan to finance its \$4 billion Ipiranga acquisition, the former was able to raise a \$1.2 billion bridge loan in about 10 days. The whopper, however, is the \$18 billion loan that a worldwide syndicate – including Credit Suisse Securities, UBS Securities, ABN Amro and Santander Investment Securities – raised to finance the tender offer from a group led by diversified mining operators Companhia Vale do Rio Doce (CVRD) for Inco in a deal which won the *IFLR* award for M&A Deal of the Year.

That's impressive access to funds in any market.

Machado Meyer Sendacz e Opice

One client dealing in contentious banking transactions in Brazil commented on Machado Meyer Sendacz e Opice: "We have always been satisfied with the results from the excellent team led by José Roberto Opice, Nei Zelmanovits and Carlos José Rolim Mello. On top of that, they are cost effective."

Following up on last year's successes, Machado Meyer has picked up where it left off. There was no surprise that Credit Suisse Securities turned to the firm to advise on the Brazilian portion of the \$18 billion loan used to finance CRVD's acquisition of Inco, a Canadian mining company.

The more traditional banking work – credit facilities, secured loans and the like – has not been neglected despite the flash of the high-profile deals. When Smart Modular's São Paulo branch needed a \$50 million revolving credit facility, Machado Meyer represented the technology company in negotiations with Wells Fargo. The firm also represented lenders BNP Paribas and Société Générale in underwriting a \$250 million loan to São Paulo paper company Suzano Papel e Celulose.

Machado traditionally does a lot of work on behalf of underwriters, with banks such as BNP Paribas and Rabobank on its client list. At least one competitor noted that the firm is now increasingly working on behalf of borrowers as well. In an ever-competitive market, having access to clients on either side of the deal should help the firm maintain its impressive reputation.

The respect given to Machado seems to stem from the work of José Roberto Opice, whose connections to the banking community are envied by the competition. There have been some comments about a lack of successors; considering that Nei Zelmanovits led the CRVD financing team, those fears might well be overstated.

A rival observed in words that echo those of other firms: "Machado Meyer continues to have access to the best transactions in Brazil, and have the highest volume. We respect them a lot and see them as a first-quality firm."

The firm added two partners and five associates to the banking department, while losing only one partner last year.

Leading lawyers

José Roberto Opice
Carlos José Rolim de Mello
Nei Zelmanovits

Pinheiro Neto

Whether on the basis of transactions or on its reputation in the Brazilian market, Pinheiro Neto Advogados is second to none. "Pinheiro Neto has a long tradition of excellent work. They are led in banking by Fernando Meira, a smart lawyer who is focused on achieving positive results and watching his clients' costs," said a partner at a rival firm.

It was expected that Pinheiro Neto would play some role in the *IFLR*'s awards shortlist, and indeed it did. Braskem, Brazil's largest petrochemical company and one of the companies included in the acquisition group that acquired Inco, selected Neto as its counsel in the arrangement of a \$18 billion syndicated loan.

It was also Pinheiro Neto that represented Braskem again, in the \$1.2 billion bridge loan that allowed the petroleum company – in a group including Petrobras and Ultra Group – to

finance the \$4 billion takeover of Ipiranga Group's fuel and lubricants, oil refinery, and petrochemical assets.

The firm also represented Boeing, GE Commercial Aviation, Aercaip, Itochu Airlease, Exxon Mobil and Fokker Services against Varig airline in a R\$5 billion (\$2.3 billion) debt reorganization which closed in July 2006. This was the first Brazilian judicial reorganization under Brazil's new bankruptcy rules.

Clients are enthusiastic about the firm's work; besides Fernando Meira, Bruno Balduccini has also been picked out for his "excellent work". While several clients have commented on Neto's size and scope of abilities, it is perhaps this review that is most significant: "Pinheiro Neto is a very good firm which, despite its much larger size, can still retain a very personal feel during transactions."

Leading lawyers

Fernando Alves Meira
Alexandre Bertoldi
José Carlos Meirelles
Antonio Mendes

Pinheiro Guimarães

Pinheiro Guimarães entered its 85th year as a law firm last year, and was quite active in banking deals. Leading financial entities like Citibank, the International Finance Corporation and Banco Santander are clients, with one major international client reporting that Pinheiro Guimarães is its first choice. Demonstrating its prowess, the firm advised Goldman Sachs and Deutsche Bank as coordinators of a \$325 million notes offering by Globo Comunicação e Participações in the international markets.

One client complimented the work of partners Francisco José Pinheiro Guimarães, Plínio Pinheiro Guimarães and Marcelo Lamy Rego: "They are outstanding professionals who take the practice of law to inventive and creative lengths, without disregard for ethics. One feels like a client, not like a source of profit, when dealing with them."

That creative streak came into play in several deals last year. First, the firm advised Citibank in a syndicate loan to São Paulo power distributor Eletropaulo worth R\$300 million. The loan was issued as *cédulas de crédito bancários* (CCBs), a Brazilian security product which allows banks to reduce costs, speed up credit recovery, and be traded in secondary markets.

The firm then advised the International Finance Corp (IFC) in its issuance of two Brazilian real-denominated offerings. The first was a \$108 million credit line to ABN Amro; the second was a \$100 million notes issuance, in real-denominated notes issued by Banco BBM.

This was the first ever real-denominated loan extended by the IFC.

The firm is regarded as small but effective. In the words of a partner at a larger rival: "They deserve their ranking because of their experience, their reputation and because they are involved in so many deals. An opinion signed by Pinheiro Guimarães carries a lot of weight."

Leading lawyers

Beatriz Fortuna
Marcelo Lamy Rego
Paola Pessôa
Francisco José Pinheiro Guimarães
Plínio Pinheiro Guimarães

Souza Cescon Avedissian Barriue e Flesch

Founded by former Machado Meyer partners and barely six years in existence as a firm, Souza Cescon Avedissian Barriue e Flesch is garnering a reputation that has placed it on the fast track to a top ranking.

"They are movers and shakers that still lack the grey hairs, but are a very good firm that will become one of the top players in the next few years." This opinion from a rival partner could explain why UBS Pacutal, Credit Suisse, Merrill Lynch, Deutsche Bank, Unibanco, Macquarie, ABN Amro, Cosan, Gol, Grupo Rede, Klabin Segall, Boa Esperanca, and Tecnisia all find themselves on the firm's client list.

Last year, Souza Cescon acted in a number of large export-prepayment transactions. The firm represented ABN Amro as lead bank in a \$25 million syndicated loan to ceramics company Portobello. It also advised Rabobank as lead arranger in a \$50 million loan to Usina Cerradinho; on the borrower side, it advised Quatro Marcos in a \$125 million loan arranged by ABN Amro.

Souza Cescon's banking partner Ronald Herscovici was singled out as "a true banking lawyer, and one of the best."

Leading lawyers

Ronald Herscovici

White & Case

"An excellent firm with an excellent reputation," is how White & Case and partner Donald Baker are perceived in the Brazilian marketplace. One catch: the firm, like other non-Brazilian firms, is not allowed to practise Brazilian law. That means it cannot represent domestic clients in local deals.

Still, Baker and his firm are active, representing Brazilian firms looking for international representation, or international firms looking for a place in Brazil. One rival said: "They are extremely ethical about [not practicing Brazilian

law], so they work in partnership with local firms. Donald Baker is involved in many transactions – frankly, I don't know how he manages to have this gift of ubiquity!"

The firm signed Brazil's largest industrial conglomerate as a new client last year, the Votorantim Group. In June 2006, White & Case represented Votorantim Participações, the group's holding company, in a \$1.2 billion refinancing arrangement.

Leading lawyers

Donald Baker

Demarest e Almeida

Taking a company public has become the preferred way to raise capital in Brazil in recent months. Since tidier balance sheets make for better IPOs, many Brazilian companies looking to launch such offerings have sought to restructure their finances. Demarest e Almeida has been quite active in such pre-IPO financings.

Before Santos-Brasil launched its IPO, Brazil's largest port operator turned to Credit Suisse Brasil for a R\$500 million secured loan. Demarest advised Credit Suisse in this deal.

The firm also handled the Brazilian portion of Goodyear Tire & Rubber's \$2.7 billion loan facility. This was part of a global financing project, placed in April 2007 by a Citigroup-led syndicate. Demarest also advised Banco Santander on a loan worth R\$600 million to Cien, the energy subsidiary of the Endesa Group.

Small wonder that an international client with extensive experience in Brazil praised Demarest e Almeida: "They are very good, and offer first-class quality of service for standard work as well as for rather more complicated transactions."

Leading lawyers

Antônio Aires
José Diaz
Priscila Pacheco
Fernando Sandoval

Levy & Salomão

Luiz Roberto de Assis leads the banking team at Levy & Salomão, with one client describing his work as follows: "Very attentive, available 24 hours, and demonstrates great flair in competently solving any issues that may arise."

Levy's clients include medium-sized banks and companies, which happen to be the sorts of businesses that have begun to show increased activity in the markets. The firm assisted sugar cane producers Laginha Agroindustrial in connection with an export prepayment facility worth some \$60 million. The banking team also advised Bank Leumi in setting up trade

finance warranties worth \$10 million for one of the bank's clients.

Leading lawyers

Luiz Roberto de Assis
Eduardo Salomão
Reubens Vidigal

Mergers and acquisitions

Recommended firms

Tier 1

Machado Meyer Sendacz e Opice
Mattos Filho Veiga Filho Marrey Jr e Quiroga
Pinheiro Neto

Tier 2

Barbosa Müssnich & Aragão
Souza Cescon Avedissian Barriue e Flesch
Tozzini Freire Teixeira e Silva

Tier 3

Demarest e Almeida
Levy & Salomão
Motta Fernandes Rocha
Pinheiro Guimarães
Trench Rossi e Watanabe

Mergers and acquisitions partners all agree on several things. First, the M&A markets have not been this active since the dotcom boom, nearly a decade ago. The devaluation of the dollar and the influx of foreign capital into the country mean that the prices of Brazilian companies are going up – and that means they are in demand.

Brazilian companies looking to expand are therefore looking abroad to find cheaper targets; this means that for the first time there are ample outbound opportunities for the jurisdiction's lawyers.

There is no hot sector – it's all hot. The whole of Brazil's corporate community is swarming with activity, with M&A offers in the biofuels industry as well as in pharmaceuticals, petrochemicals and energy. The sugar cane industry is attracting a lot of attention, but so is telecoms; in other words, there is no need for law firms to try to focus on any one industry.

The boom is partly due to the IPO craze, which has left many companies with swollen treasuries, full of capital they need to invest. The more obvious targets have already been taken over, so now it's the smaller companies that are getting attention. The banking industry, for instance, led the way for consolidation a couple of years ago, but most of the bigger banks have already been consolidated. Now it's the medium-sized banks that are capitalizing themselves through their own IPOs, buying time to prepare for the next wave of consolidation in their industry. The next targets are expected to be the high-margin consumer credit banks; because these institutions are smaller and tend to be

more volatile, they have been mostly left alone until now.

It should be no surprise that the largest M&A deal (involving only domestic parties) in Brazilian history has taken place in this environment. In March 2007, a group led by Petrobras – along with Braskem and Grupo Ultra – announced its intention to purchase Grupo Ipiranga in a deal worth an estimated \$4 billion. Despite the size of the deal, this is just another family-owned enterprise that has decided to cash in its stakes, and there are lots of family-owned companies in Brazil. Any concern that the market is overheated should be laid to rest; as one partner said: "The amounts transacted are very large, and there are still many more companies that are in this way."

Machado Meyer Sendacz e Opice

Machado Meyer Sendacz e Opice is one of only two Brazilian firms that received top-ranked billing in every practice area. A big reason is the glowing feedback the firm's M&A team receives from its clients. "Machado Meyer is a brilliant firm, led by the highly regarded José Roberto Ópice," said one. "His work is of the highest calibre, and he is himself totally committed to his client. You could call him at five minutes past midnight on New Year's Eve, and he'd still be available to answer your questions."

That sort of commitment led Machado Meyer into the Ipiranga deal, representing Grupo Ultra as one of the acquirers in the \$4 billion takeover. This was no simple affair, of course – it was a multi-stage acquisition involving the purchase of shares from the original family owners, then buying out the minority shareholders, and finally, incorporating the preferred shares held by the minority shareholders of Ipiranga subsidiaries.

While Ipiranga's significance needs no embellishment, Machado Meyer's sentimental deal of the year was the acquisition of Leão Junior by Coca-Cola in a deal worth about \$100 million. Leão Junior's flagship product, the popular Matte-Leão bottled tea, went along with the company. The firm represented the sellers, which is to say, they represented some 30 family shareholders as yet another Brazilian family-owned company sold out. Interestingly enough, the family members had been ready to sell as early as 2002, yet no one – not Pepsi, Kraft, Nestlé, Cadbury Schweppes, nor even Coca-Cola – was interested at the time. One Machado Meyer partner noted: "Selling a landmark like Leão Junior to Coke was ironic, but it also shows how much the Latin American soft drink industry has changed."

A Machado Meyer team, led by the highly commended partner Carlos José Rolim de Mello, represented Inpacel (International Paper's Brazilian subsidiary) in a \$410 million

sale of the subsidiary's assets to Finnish forestry company Stora Enso. The divestiture was part of a complicated restructuring at International Paper; meanwhile the Finnish company was left as the sole producer of coated mechanical paper (used for magazines and catalogues) in Latin America.

Leading lawyers

Antonio Corrêa de Meyer
José Roberto Ópice
Carlos José Rolim de Mello
Moshe Sendacz

Mattos Filho Veiga Filho Marrey Jr e Quiroga

The name of Moacir Zilbovicius is one of the first names to come up in any discussion of the Brazilian M&A market. The head of the department at Mattos Filho Veiga Filho Marrey Jr e Quiroga leads a team which is judged to have "very good lawyers that are extremely capable", garnering a lot of respect from its peers. A partner at a top-tier firm said: "Their reputation is that of a solid firm with a fantastic capacity to deliver in sophisticated transactions."

Client comments are equally praiseworthy, citing the firm's size and prowess in the field: "Mattos Filho is a larger firm which lend themselves to bigger, more contentious transactions," said one client. "With Moacir Zilbovicius, the whole team is very reliable, extremely able, professional and commercially more aggressive."

Zilbovicius led Mattos Filho in one of the larger mergers of the year, advising Submarino, one of Brazil's largest internet retailers, as it joined with another leading Brazilian online retailer, Americanas.com. The new entity, called B2W – Companhia Global do Varejo, had a market value of \$3 billion at the time the deal closed in December and by some estimates would control about three-fifths of the Brazilian online retail market.

Mattos Filho client International Paper continued a restructuring strategy with an exchange transaction in Brazil, involving a divestiture of assets worth \$1.1 billion to Votorantim Group's paper subsidiary, VCP. The capital raised from the sale will be used to build an uncoated paper machine, as the company continues to focus globally on its uncoated papers and packaging businesses.

Recently, the firm advised South African media group Nasper in a \$422 million purchase of a 30% stake in Abril, the largest magazine publisher in Brazil. The deal gives Nasper a foothold in Latin America since Abril is also one of the region's largest media companies, and fits into the South African group's expansion strategy.

Mattos Filho did lose a handful of associates from the M&A department last year, but also

hired seven new attorneys to handle the workload. The firm also named a new partner to the M&A team.

Leading lawyers

João Ricardo de Azevedo Ribeiro
Marcelo Trussardi Paolini
Moacir Zilbovicius

Pinheiro Neto

The only other firm receiving top ranks in every area, Pinheiro Neto conclusively demonstrated why it deserves such high marks. One leading rival confirmed the firm's ranking: "Their long history has given them a fantastic lead over other firms – even ours – and helps keep them intact. They have a low attrition rate due to their reputation as the leading Brazilian firm, as well as because of the quality of the teams they are able to put together."

Top firms work on the top deals, and Pinheiro Neto was stuck right in the middle of the Ipiranga deal which was the largest transaction in Brazilian corporate history. The firm represented the five-family syndicate that had controlled Ipiranga before its \$4 billion sale to Petrobras, Ultra Group and Braskem.

Pinheiro Neto found itself in another billion-dollar deal earlier this year. When the French retail group Carrefour came to Brazil looking for expansion opportunities, it turned to Pinheiro Neto for assistance. The subsequent \$1.1 billion acquisition of the Atacadão hypermarket chain in April 2007 made Carrefour the largest food retailer in Brazil in terms of sales.

Top firms are also involved in strategic industries, and Pinheiro Neto represented B5, one of the country's largest ethanol companies. B5 was left with a 64% stake in Companhia Açucareira Vale do Rosário, Brazil's second-largest sugar and ethanol company. This was accomplished in a two-round share acquisition with a total value of \$520 million, and left B5 as the second-largest ethanol company in Brazil. This is a strong strategic move for B5, as Brazil's ethanol sector has begun attracting substantial international investors because of the price of oil as well as anxieties about climate change.

The two Pinheiro Neto lawyers that received the most attention from clients were Alexandre Bertoldi and Carlos Alberto Moreira Lima. Competitors have also singled out Fernando Meira.

Leading lawyers

Fernando Alves Meira
Alexandre Bertoldi
Antonio Mendes
Carlos Alberto Moreira Lima

Barbosa Müssnich & Aragão

A full-service firm founded a dozen years ago, Barbosa Müssnich & Aragão enjoys a reputation as one of the leading M&A firms in Brazil. The firm continually finds itself working opposite the most prestigious lawyers in Brazil, and from abroad as well.

The Global Crossing purchase of Impsat is typical of the firm's work. American telecoms company Global Crossing paid \$347 million in cash and assumed debt to buy out Buenos Aires-based Impsat, which the former had been using as its Latin American network since 2000. The latter had operations in seven countries besides Brazil, and involved some of the bigger names in the South American legal community. Barbosa Müssnich represented Global Crossing in Brazil alongside Latham & Watkins.

In the local markets, Barbosa represented Lojas Americanas, whose Americanas.com Internet retailer was merged with Submarino in a \$2.8 billion transaction that created the largest online retailer in Brazil, B2W – Companhia Global do Varejo.

South America's largest beer company has also turned to Barbosa Müssnich for advice. AmBev acquired 100% of Goldensand Comércio e Serviços in a \$150 million buyout this year. The transaction is part of AmBev's decision to enhance its production in the beer and soft-drinks market.

Leading partner Francisco Antunes Maciel Müssnich helped the firm's client Credit Suisse in another strategic move. The Swiss bank was looking for an opportunity to expand into private banking and asset management in Brazil, and found it in the bank Hedging-Griffo. Credit Suisse acquired a controlling interest of 50% plus one share in the asset managers, in a December 2006 deal valued at about \$294 million.

Leading lawyers

Francisco Antunes Maciel Müssnich
Paulo Cezar Aragão
Plínio Simões Barbosa

Souza Cescon Avedissian Barriue e Flesch

A client list that includes financial institutions such as Goldman Sachs, Citigroup and ABN Amro helps put Souza Cescon Avedissian Barriue e Flesch on the charts. One rival partner specifically pointed out that partners Marcos Flesch and Maria Cristina Cescon Avedissian were both very good lawyers to go up against.

Clients also like the firm's work, and one who worked closely with Flesch reported: "Marcos Flesch can easily find solutions without becoming belligerent. He is extremely dedicated, thoroughly professional and always available."

One of the largest transactions of 2007 so far has been the acquisition of retailers Atacadão by French hypermarket company Carrefour. Souza Cescon advised the Brazilian company in the \$1.1 billion deal that turned Carrefour into the largest Brazilian food company.

Another significant deal which took place in the first half of 2007 was the consumer goods firm Hypermarcas' buyout of DM Farmaceutica, in a deal worth approximately \$700 million. Souza Cescon advised the buyer, helping to make it the country's largest consumer goods firm.

One opposing lawyer summarized Souza Cescon's future: "Keep an eye on them. They are almost ready to move up, just lacking that high-profile M&A deal to push them over the top."

With the billion-dollar Atacadão-Carrefour deal and the Hypermarcas deal already on its rolls, it will be interesting to track whether the firm's performance over the rest of the year will put the missing pieces in place.

Leading lawyers

Maria Cristina Cescon Avedissian
Marcos Flesch

Levy & Salomão

"I have worked against Eduardo Boulos, and he really impressed me. He is a star for the future, and can make a difference as an M&A lawyer. He is with an excellent firm that is only missing experience. And in this competitive environment, you need some very experienced, grey-haired partners. Their time has not yet come, but these are ones to watch."

The words of a grey-haired partner at a leading M&A firm bode well for the future of Levy & Salomão Advogados. The firm's time could be coming indeed – Boulos and the equally respected Amadeu Ribeiro led XL Capital into a joint venture with Banco Itaú to create a new insurance enterprise, with each partner owning half of the R\$170 million share capital. The importance of the deal lies in the strategic positioning of the joint-venture, just as the Brazilian insurance market has opened up to new players.

A few more strategically important deals like this, and Levy & Salomão will be able to live up to its potential.

Leading lawyers

Amadeu Ribeiro
Eduardo Taleb Boulos

Project finance

Recommended firms

Tier 1

Machado Meyer Sendacz e Opice
Pinheiro Neto
Souza Cescon Avedissian Barrieu e Flesch

Tier 2

Barbosa Müssnich & Aragão
Mattos Filho Veiga Filho Marrey Jr e Quiroga
Tozzini Freire Teixeira e Silva

Tier 3

Demarest e Almeida
Lefosse
Levy & Salomão
Trench Rossi e Watanabe

Project finance is the one financial practice area that has not been particularly active in Brazil of late; in the words of one leading partner: “Every firm is a little frustrated because of the lack of work at the moment. This will change, because it has to, but not with the speed we were hoping.”

Part of the problem is that the markets have been facing delays from the Brazilian government in structuring significant bids. Projects have been announced and bids prepared, only for the government to announce a postponement, time and again.

Areas that have enjoyed some project finance work include alternative energy, biomass, drilling rigs and toll roads, all of which have moved forward after some delays. There is a tremendous energy shortage in Brazil, so some are hoping that this will signal the introduction of new capital-intensive projects in energy-related industries.

Another partner summarized the market for Brazilian project finance: “Roads and ports – there is a lot of need for both to be developed but the regulatory structure is not there. With capital markets, banking and M&A, the Brazilian markets are as sophisticated as any country; in project finance, though, we are not really happening.”

Firms can only wait for the pent-up demand for infrastructure needs to prod the government agencies into action. In the meantime, work in the private sector continues, although not at the same level as government-led projects would bring.

Machado Meyer Sendacz e Opice

Antônio Corrêa Meyer continues to lead the project finance team at Machado Meyer Sendacz e Opice. The firm added two more associates to the team, bringing it up to 42 lawyers.

The TermoFortaleza Project is the most significant project finance work the firm

embarked on last year. The TermoFortaleza facility, located in the state of Ceará, is responsible for the supply of approximately 30% of the local power demand supplied by Coelce, the power distribution company for the state. The International Finance Corporation (IFC) granted the facility a loan worth \$130 million to refinance the design, and for the construction and operation of the power plant. Partners José Roberto Opice and José Virgílio Lopes Enei were counsel to the IFC.

Machado Meyer has been assisting Pacific Hydro, an Australian energy company, acquire wind energy generation projects in the north-eastern states of Paraíba and Rio Grande do Norte. Negotiations continue, but once concluded would help create clean energy production. This deal is currently valued at \$7.5 million.

Leading lawyers

Antônio Corrêa Meyer
José Virgílio Lopes Enei
José Roberto Opice
José Ribeiro do Prado Jr

Pinheiro Neto

Ricardo Coelho and his team in Rio are charged with the task of project finance development, and have been active in the oil and gas industry. This has allowed Pinheiro Neto to remain quite active and avoid the slump which has affected other firms.

The firm represented Transportadora Gasene in a financing granted by Banco Nacional de Desenvolvimento Econômico e Social (BNDES). Transportadora Gasene used the proceeds, worth R\$1.5 billion (\$815 million), to acquire pipelines, and to build gas pipelines from Rio de Janeiro to Bahia.

Pinheiro Neto also advised Banco Itaú and Banco ABC do Brasil in a \$250 million financing for MMX Amapá Mineração e Metálicos. MMX used the proceeds to develop all aspects – particularly the construction of a port facility – that were integral to the company’s Mineração Amapá project, in the northern state of Amapá.

Leading lawyers

Ricardo Coelho
Laura Pinheiro de Oliveira
Marcelo Viveiros de Moura

Souza Cescon Avedissian Barrieu e Flesch Advogados

Souza Cescon Avedissian Barrieu e Flesch Advogados continues to impress its rivals in all practice areas, including project finance. Even in this depressed market, Souza Cescon was able to put together several projects for its clients.

Souza Cescon acted as counsel to ABN Amro in the Brasil PCH project, a two-tier structure for subordinated lending for a portfolio of 13 hydro-electrical plants; the total amount was R\$1.1 billion. ABN Amro was the financial adviser in the deal, and supplied about R\$165 million in financing on a subordinated basis; BNDES provided some R\$770 million on a senior basis.

In another ABN Amro deal, Souza Cescon was counsel to the Dutch bank for the \$700 million financing in the construction and development of P-53, one of the largest offshore production units being sponsored by Petrobras.

The firm also was counsel to InfraBrasil, an infrastructure fund, in connection with the R\$46 million financing granted to Companhia Energética Rio da Prata, a holding company which owns the special purpose companies created for the construction and development of two small hydro-electric plants located in southern Brazil. BNDES provided another R\$156 million in loans directly to the special purpose companies.

Souza Cescon has three partners and 10 associates in its project finance team. One associate joined the team in 2006, with no partners or associates defecting. The firm has a broad range of clients in this area, including ABN Amro, Petrobras, Camargo Correa and Odebrecht.

Leading lawyers

Cristiane Naomi Kaneko Flesch
Luis Antonio de Souza