BMA Review #85: A major judgment by Brazil's constitutional court on the Internet Bill of Rights, the new biofuels incentives, and more articles by our specialists

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Topics

BMA Review

Two appeals before Brazil's Supreme Court that will have a major impact on the interpretation of the country's Internet Bill of Rights is the cover article of the **85th edition of BMA Review**.

Other articles with insights businesses can use for a well-informed start to 2025 deal with CVM Resolution 204, which makes changes to remote voting at shareholders' meetings, and Brazil's new Pillar II top-up tax for multinationals.

Click here to read the entire edition or scroll down to see each article. Click on the title to read the articles that interest you, and don't hesitate to contact us if you have any questions.

INTELLECTUAL PROPERTY

Essential Patents and Recent Decisions by Brazilian Courts

By Pedro Frankovsky Barroso, José Humberto Deveza Assola and Maria Clara Ferreira

Patent holders and implementers of technological standards such as 5G and HEVC are increasingly turning to the judicial system in Brazil, particularly the Rio de Janeiro courts, to resolve issues related to the protection of standard essential patents (SEPs), in light of both intellectual property and competition rights.

TAX

New Regulations Impose Unlawful Eligibility Requirements for RET-Developments

By Vivian Casanova and Pedro Augusto Souza Clemente

The change will generate uncertainty for real estate developers in case of delays in the approval of the option for RET-Developments, since the real estate developments projects will have been launched with the sale of units in advance.

LABOR AND EMPLOYMENT

Can the debate over non-compete clauses in the United States impact employment relations in Brazil?

By Cibelle Linero and Larissa Medeiros

With this uncertain scenario, businesses in Brazil that have subsidiaries or parent companies in the U.S.A. may wonder whether decisions by the FTC and US courts affect non-compete clauses signed in Brazil.

CLIMATE AND ENVIRONMENTAL LAW

Challenges in Integrating Free, Prior and Informed Consent into Environmental Permitting

By Fernanda Tanure and Alexandre Dantas

The absence of federal regulation on ILO Convention 169 creates uncertainty on how to apply the Convention in Brazil, affecting both economic development projects and protection of indigenous and tribal peoples. In the context of environmental permitting, especially in the more advanced phases, FPIC generates even more legal uncertainty.

FINANCE AND CAPITAL MARKETS

CVM Releases Final Regulations on Agribusiness Funds

By Felipe Prado, Gustavo Maia and Leonardo Cardoso Quintino de Oliveira

The new regulation does away with this distinction by establishing rules applicable to the entire class of Fiagros and even creates the possibility of “multimarket” Fiagros by permitting investments in different categories of agribusiness assets.

DISPUTE RESOLUTION

Brazil’s Supreme Court and the Civil Rights Framework for the Internet

By Rafael da Rocha Castilho and Lívia Caldas Brito

One aspect inherent in the question before the STF is that it is practically impossible for legislation to keep up with technological advances, or the new relationships generated by those advances.

CORPORATE AND M&A

CVM Resolution 204 and Remote Voting at the General Shareholders' Meetings of 2025

By Igor Silva de Lima, Amanda Helena de Morais e Silva and Juliana Duro Lucas

With the changes introduced by CVM Resolution 204, companies will need to pay special attention to the new procedures for remote voting by shareholders, by means of a remote voting ballot ("Ballot").

COMPLIANCE, INVESTIGATIONS AND REGULATORY ENFORCEMENT

New regulations on administrative settlements under Brazil's Anticorrupton Law

By José Guilherme Berman and Daniela Coelho Araujo Fernandes

The new administrative settlement was the subject of public hearings in 2023 and does not introduce significant changes into the practice established for consent order.

DISPUTE RESOLUTION AND WEALTH AND SUCCESSION PLANNING

The Superior Court of Justice Decides on Probate Jurisdiction over Foreign Assets

By Mario Felippe de Lemos Gelli and Maria Eduarda Echeverria Magacho

Brazil's highest court on non-constitutional matters has decided that Brazilian courts do not have probate jurisdiction over foreign assets left by Brazilian residents.

SUPERIOR COURTS AND REGULATORY & GOVERNMENT AFFAIRS

Structural Litigation: The Judiciary's New Frontier in Public Policy

By Giovani Trindade Castanheira Menicucci and Paula Cintra

Some of the main challenges in this type of litigation are the need for a detailed analysis of the conflict and its social impact, the preparation and implementation of a reorganization plan, and the assessment and monitoring of the results of the plan.

CLIMATE AND ENVIRONMENTAL LAW

Fuel of the Future: New Legislation Supports Bioenergy

By Márcio Pereira, Marlus Oliveira and Maria Luísa Paes

Biofuels can make an important contribution to decarbonizing the economy and achieving international GHG reduction targets. Brazil plays an important role in the production of this type of fuel, and the recent Fuel of the Future Law has the potential to generate investment of more than BRL 250 billion.

RESTRUCTURING AND INSOLVENCY

Not-for-profit Associations and Brazil's Business Restructuring and Bankruptcy Law: How the caselaw has evolved

By Luciana Celidonio, Victor Baldi and Ana Carolina Villa

The BRBL provides that only business proprietors and business companies have standing to apply to the courts for supervised or unsupervised restructuring of their enterprises (referred to in Brazil as "judicial" and "extrajudicial" restructuring) or be declared bankrupt.

TAX

Taxation of Multinational Enterprises and Brazil's Top-up Tax (Pillar II)

By Hermano A. C. Notaroberto Barbosa and Teresa Novais Corrêa Meyer

Bringing Brazilian law into alignment with the international standard on global minimum taxation, the new CSLL top-up tax affects subsidiaries of large multinational groups doing business in Brazil.

› PROFESSIONALS

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