The Fiagro and new opportunities for investment in Brazilian agribusiness

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Authors

Conrado De Castro Stievani

Cristiana Moreira

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Enacted on March 29, 2021, Federal Law 14.130 creates a new type of investment fund in Brazil, dedicated to investments in the agribusiness production chain. The new legislation is quite flexible in terms of the asset classes in which an agribusiness investment fund, or Fiagro, can invest.

The government's aim with Fiagro is mainly to relieve public coffers of the pressure from subsidizing interest rates for agriculture production by encouraging private investors – both national and non-national – to inject liquidity into the industry.

A Fiagro's portfolio may include several asset classes, ranging from fixed income securities, equity issued by agricultural businesses, to rural land. While many of those assets have been in the portfolios of existing investment vehicles that are widely available to foreign investors, rural land is one asset that has not been available and has been a controversial topic for several years.

One of the reasons for the controversy is that acquisition of rural property by non-Brazilian persons or Brazilian entities controlled by foreigners faces restrictions under Federal Law 5709/1971. When the 1988 Federal Constitution of Brazil was adopted, there was a certain flexibility in relation to the acquisition or lease of rural properties through legal Brazilian entities controlled by foreigners. However, since 2010, such acquisitions again became subject to restrictions, and subject to prior approval by federal government, depending on the size and location of the properties as well as the project to be developed in the land.

When the Fiagro bill was presented in Congress, the market expected that legislators would take the opportunity to clarify the rules applicable to foreign investment in rural land. Although there were debates about the matter, specific rules have not been drafted or approved in the context of the new Law.

One view in the market is that the new Law permits (by not prohibiting) non-Brazilian individuals and entities to invest – indirectly – in rural property, by acquiring shares in Fiagros that hold the title to rural property. That view finds support in the fact that congressional representatives discussed whether the
provision allowing investments in rural property by Fiagros should or should not be removed from the text, precisely because non-Brazilian individuals or entities could hold a majority of the units in the investment fund and thus be the ultimate beneficial owner of the land. Congress decided to keep the

provision in the Law.

The questions now concern how the market will test the Fiagro structure for investment in land and what regulations may be enacted in the coming months. Meanwhile, the expectations of fund managers and investors for positive developments remain high and the first Fiagros will hit the market soon – whether to invest in rural land or in all the other available asset classes is still to be discovered.

**This content is part of the e-book "A Post-Covid World, the ESG Agenda and Other Trends in 2021: Insights for Foreign Investors in Brazil". Click here to view all the articles.*

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Conrado De Castro Stievani

Cristiana Moreira