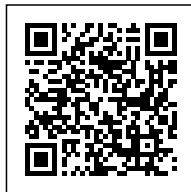


BRAZIL REFUSING TO OPEN ITS DOORS

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As the OAB gives its final ruling, Iberian law firms with alliances or offices in the country could be guilty by association

The fallout from the Brazilian Bar Council's (OAB's) decision in October to stick to its tight restrictions on foreign law firms operating in the country has been quick in coming.

The OAB is notorious for its tough rules on non-Brazilian practices. The recent review prompted concerns that it may take an even more protectionist approach, potentially leading to Iberian firms, which have made Brazil a strategic international priority, ending associations or closing offices. Now, the OAB has upheld rule 91/2000 allowing foreign law firms to register locally and offer home and international legal advice, yet prohibiting them from entering partnership with a local firm or hiring Brazilian lawyers.

On the face of it, the decision to keep with the status quo has had little tangible impact on the market. Law firms can provide advice and answer questions on international law, but not on domestic law or activities, nor work within the same offices as any local lawyers. But, some firms

within the 'grey area' of the rules – notably those with alliances and associations of firms with an existing office in Sao Paulo – have still had to act swiftly.

Owing to the sensitivity of the issue, the Iberian law firms contacted were reluctant to comment. But as an Iberian Managing Partner told Iberian Lawyer off the record: "International law firms that have 'paper associations' with a local firm but no direct presence in the country should not have any problems. It is firms that have their own offices in Brazil as well as an association that the OAB rules are targeted at."

Aside from Spain and Portugal, the potential closing of doors to non-domestic lawyers is being monitored closely around the world. From the international firms currently operating in Brazil, around three quarters are English or American with the rest Iberian.

Firms such as Linklaters, DLA Piper, Mayer Brown and Uría Menéndez, which have or had offices in Brazil as well as associations with local firms, were reviewed by the OAB and the biggest impact of the recent decision involves international law firms. Linklaters swiftly terminated its local agreement with Lefosse Advogados, although stated it would continue to work with the firm and maintain its presence in Sao Paulo. Other movements saw Squire Sanders due plan to pull out of Brazil at the close of 2012 after it exited its agreement with Derrai Advogados in 2011.

The situation regarding Iberian firms' Brazilian alliances is mixed. Uría Menéndez has a long standing collaboration with Dias Carneiro Advogados as well as its own stand-alone office. While their Portuguese peers, such as MLGTS with Mattos Filho Veiga Filho Marrey Jr & Quiroga Advogados, and Vieira de Almeida with Pinheiro Neto Advogados, do not have their own named local presence. The message is that foreign firms have to be very cautious of what they offer and how they brand themselves in Brazil. The OAB rules state that there has to be a strict divide between international and local firms and it can be risky for international law firms to ignore any rules.

Despite the OAB's recent stance, Iberian lawyers suggest there is a growing lobby from outside the legal profession to encourage liberalisation. This could be crucial in continuing to make strides in the country. "Interestingly, the lobbying is not just coming from firms or bar associations but international clients, who want to be able to use their preferred counsel in Brazil mainly due to confidentiality issues," says Mafalda Seabra Pereira from AVM Advogados, the Angolan law firm also practising in Rio de Janeiro.

There is hope that a new OAB president could move the debate forward by bringing fresh perspective to the situation. And history has shown that jurisdictions do eventually relax rules, say lawyers.

The message here, therefore, is that Iberian law firms can still profit from investment. They are free to open a stand-alone office in Brazil and work on Spanish, Portuguese or international legal matters for clients. To win that trophy, they just have to continue to play by the rules.