

# NEW PROPOSALS COULD DISSOLVE IBERIAN LAW FIRM ALLIANCES WITH BRAZIL

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## **A ruling is imminent on provisions that have the potential to close the Brazilian legal market's doors to international law firms**

The Brazilian Bar Association (OAB) has issued a draft proposal for new provisions severely tightening the relationships between domestic and foreign law firms. If approved, it will significantly restrict the activities of foreign firms in Brazil, potentially resulting in alliances and associations being dissolved.

The proposal has not come out of nowhere. Last year the Brazilian press reported on the first trial of the Brazilian Bar Association (OAB), which resulted in the suspension of two lawyers for an association between Brazilian and US firms. One of the first alliances in the country was also investigated, between Linklaters and Brazilian Lefosse Advogados. While this matter was looked at closely by the OAB, local sources say that a settlement agreement was reached and the matter is no

longer ongoing.

Sources have also pointed towards open investigations into other alliances, including Uría Menéndez and Dias Carneiro Advogados (Brazil), and Baker & McKenzie and Trench, Rossi e Watanabe Advogados (Brazil). However, the law firms are quick to say they are respecting guidelines.

"Uría Menéndez has always collaborated with the OAB and nowadays no investigations are open," says Luis Acuña a Partner at Uría Menéndez. "Should the OAB dictate new provisions where we need to adapt, we will do so accordingly."

Baker & McKenzie has had a cooperation agreement with Trench, Rossi e Watanabe for more than 50 years. And while the OAB recently examined this cooperation agreement, says Claudia Prado, Managing Partner at the firm, it recognised that the firm operates independently, as a Brazilian law firm with only Brazilian lawyers.

While not closed off entirely to international involvement, since 2010 Brazil has very strict rules as to what foreign law firms may and may not do within its borders. They can work as 'foreign legal consultants' providing advice and answering questions on international law, but cannot advise on domestic law or activities, nor work within the same offices as any local lawyers. Therefore to provide a full service in Brazil, foreign law firms need to form an alliance, association or partnership with a local firm.

The draft proposal, however, intends to take this a step further, and prevent, or obliterate, many practices that are currently being utilised by local and international law firms alike.

The OAB intends to clear up any potential for confusion when it comes to brand or institutional identity, which effectively means a very clear separation between local and foreign firms. These include prohibiting the sharing of email addresses, phone numbers, business cards, websites, databases, client lists and HR, among many others.

Most notably, firms would not be able to use the phrases "associated with" or "in cooperation with", according to the OAB's proposal document.

If approved, this could potentially mean the end for some established alliances, and severely restrict international law firm activity in Brazil.

Sources have said that one driver behind this push is the recent increased presence of international law firms since the start of the global economic crisis. As Brazil's economy keeps growing and its place as a destination of opportunities remains high (see our Latin America Special Focus page 43), so have the number of law firms wishing to stamp their footprint there.

These international alliances are perceived by many, say lawyers, as having led to increasing market share by previously small players in the market, and this competition doesn't sit comfortably with the top tier firms.

It is no surprise, therefore, that the majority of judges that decide on the processes being investigated belong to leading independent firms, they add.

The proposal was drafted by Carlos Roberto Siqueira Castro, a Partner at one of Brazil's biggest law firms, Siqueira Castro Advogados, and is currently being reviewed by the OAB's International Relations Committee.

A ruling is imminent, and if the Federal Counsel rules in favour of the proposal, then this may be the end for domestic and international law firm alliances, with implications for the likes of DLA Piper, PLMJ and VdA, which all have alliances with Brazilian firms.