

Updates on the Legal and Corporate Deal Map for Venture Capital in Brazil

Agenda

- **Fund Formation and LP Investment**
- **Legal Due Diligence**
- **Investment/Financing Instruments**
- **Investment Terms – Equity and Debt**

Fund Formation & LP Investment

- Flexible structure
- Permission for any Brazilian fund to invest abroad
- Less bureaucracy (auditing, corporate structure, appointment of board members)
- Special fund structure to invest most of \$\$ abroad
- Foreign LPs don't pay tax on capital gains

Legal Due Diligence – Main Concerns

- Taxes
- Anti-Corruption (Operation Car Wash)
- Labor
- Intellectual Property
- Regulatory
- Corporate
- Litigation

Legal Due Diligence - Taxes

- Complex tax mainframe
- Parallel accounting – Non registered revenues
- Evaluation of business model – Which indirect tax applies?

Legal Due Diligence – Anti-Corruption

- “New” anti-corruption law (2013)
- Change of culture
 - Operation Car Wash
 - Former speaker of the Lower House expelled from Congress
 - Impeached President
 - Former ministers in jail
 - CEOs in jail

Legal Due Diligence - Labor

- Employees outside payroll
- Brazilian Labor Courts are very protective
- Collective Bargain Convention x Collective Bargain Agreement

Legal Due Diligence – IP & Regulatory

- IP
 - Software register
 - Patent and trademark filings

- Regulatory
 - Certificates
 - Regulation by federal agencies (banking, energy, healthcare etc.)

Investment/Financing Instruments

- Convertible Loans
 - Early stage
 - Investors protection
 - Previously discussed valuation
 - Investor control over management
- Equity Investment
 - Later stages
 - Used mostly by funds (not angels/holdings)
 - Investor control over management
- Option Agreements (type of SAFE)
 - Early stage

Equity Transactions

- Typical Brazilian Terms:
 - Put option
 - Drag along

- Regular Terms:
 - Tag along / ROFR
 - Liquidation preference
 - Protective provisions
 - Anti-dilution protection
 - Non compete and lock-up of founders
 - Appointment of members of BOD / officers

Debt Transactions

- Main Terms:
 - Valuation
 - Covenants
 - Rights upon conversion (shareholders agreement)

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