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KEY LEGAL CONSIDERATIONS REGARDING **HOTEL DEVELOPMENT IN BRAZIL**

MAY, 2025

SUMMARY

HOTEL INDUSTRY

OVERVIEW

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

LATIN AMERICA

Brazil is the second-largest market in Latin America for hotel development

Latin America has **685 new projects**, of which

106

are in **Brazil**

Second only to Mexico, which leads with 248 projects

Source: Lodging Economics. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

NEW PROJECTS

+1.2%

In the first **eight months** of 2024 compared to the same period in 2023

Northeast of Brazil experienced an increase of

+8.1%

North of Brazil experienced an increase of

+3.3%

AVERAGE **DAILY RATE** (ADR)

+10%

North of Brazil leading with

+16.5%

REVENUE PER AVAILABLE ROOM (REVPAR)

+11.9%

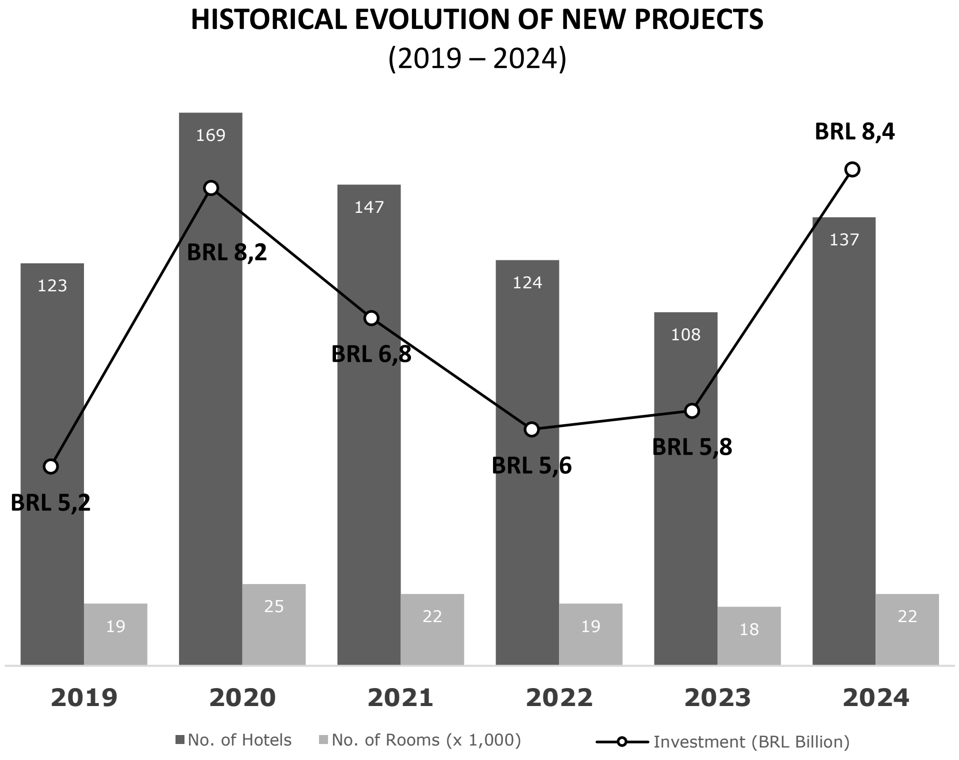
North of Brazil Leading with

+20.4%

Source: Lodging Economics. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

NEW PROJECTS



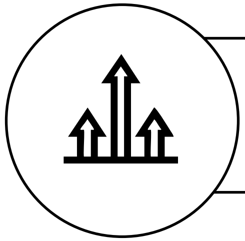
"In 2024, the downward trend in new hotel projects was reversed. Since 2021, this decline had been observed due to the COVID-19 pandemic, which severely impacted hotel revenues. However, the 2024 report found that 44 new projects were added to the development pipeline of Brazil's leading hotel chains"

In 2024, investments were estimated at

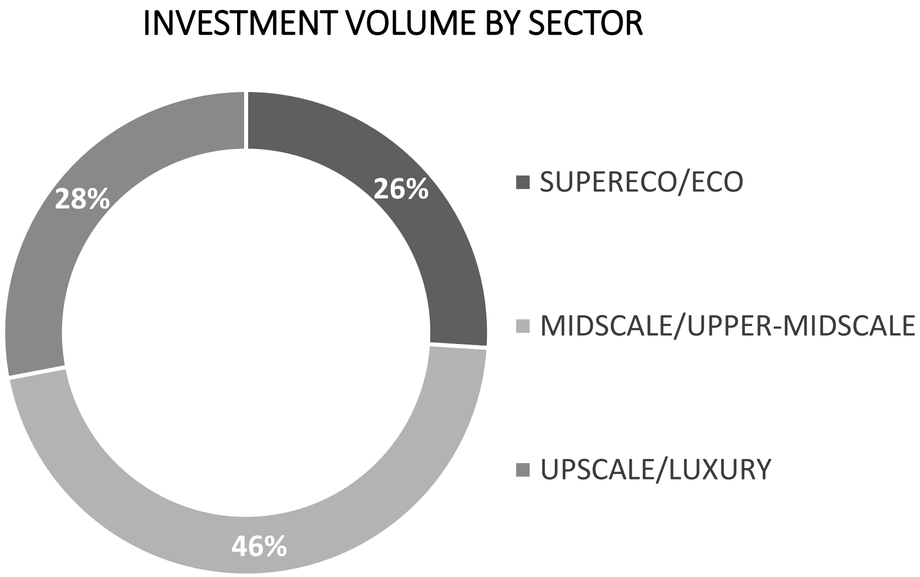
BRL **8.4** billion

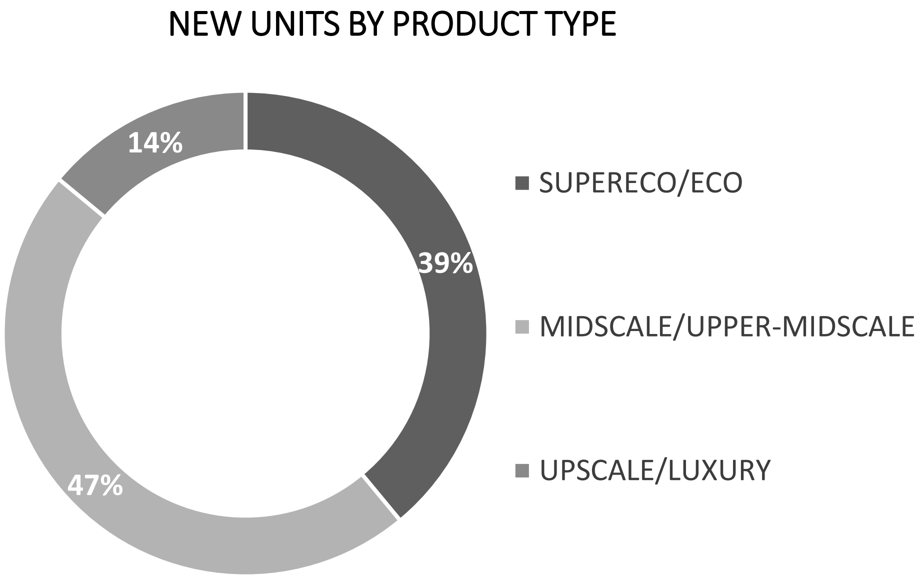
representing a 26.9% increase compared to the 2023 forecast

SECTORS



Once again, the **super-economy/economy** sector lost ground to the **midscale/upper-midscale** sector in terms of investment volume, as well as the number of units planned for the coming years

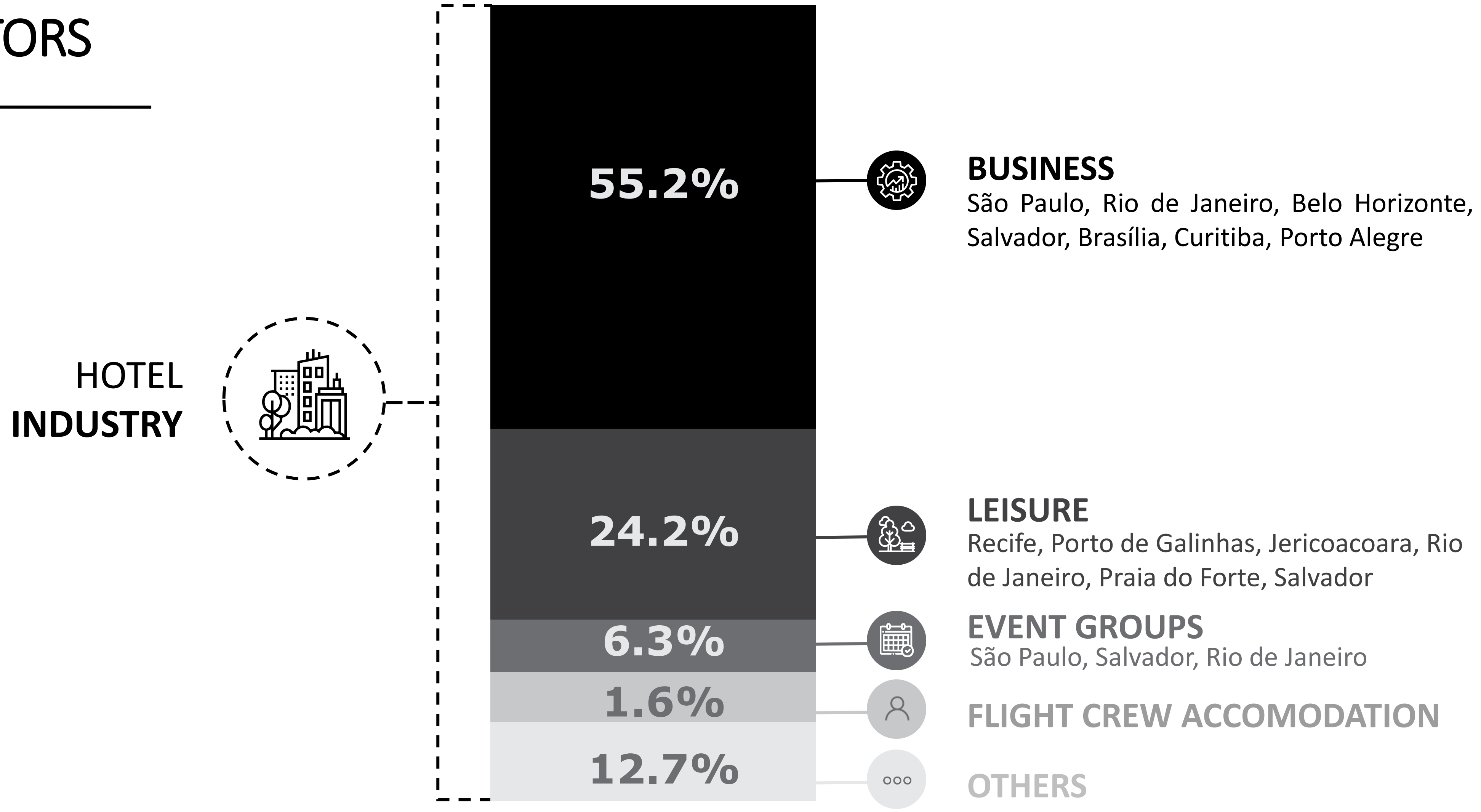




Source: Fórum de Operadores Hoteleiros no Brasil. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

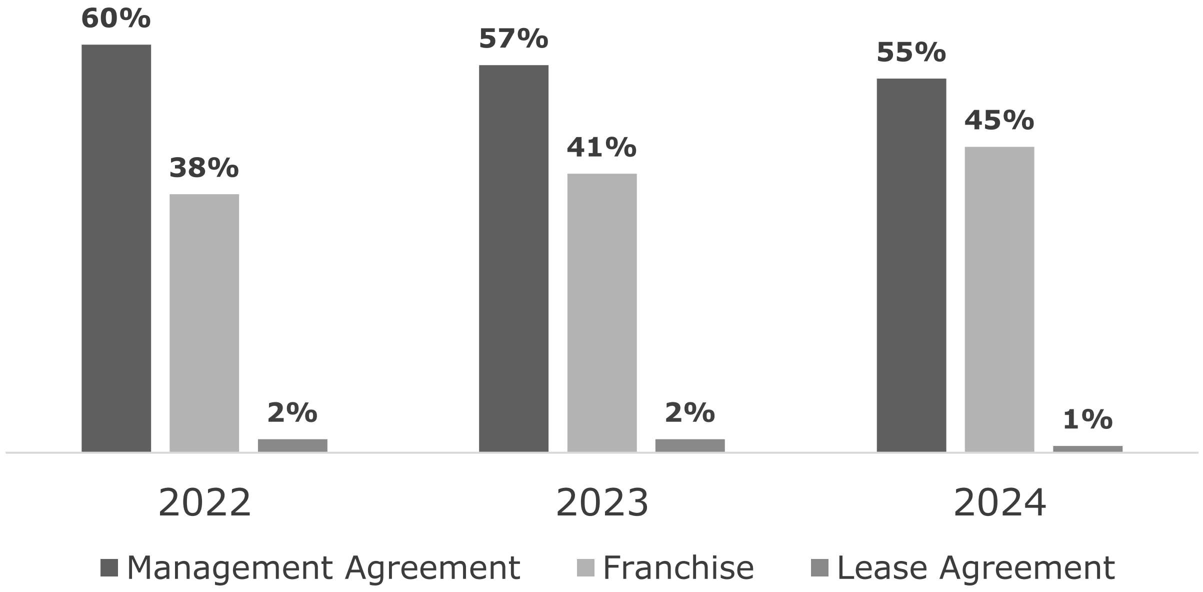
SECTORS



Source: JLL. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

STRUCTURES



"Over the last three Panorama reports, management agreements have been losing ground to ***franchise agreements****, mainly due to the focus of hotel development shifting to non-coastal cities"*

Source: Fórum de Operadores Hoteleiros no Brasil. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

STRUCTURES

OWNERSHIP
Hotels owned by the chains

LEASE AGREEMENTS
Long-term, short-term leases, and, built to suit agreements

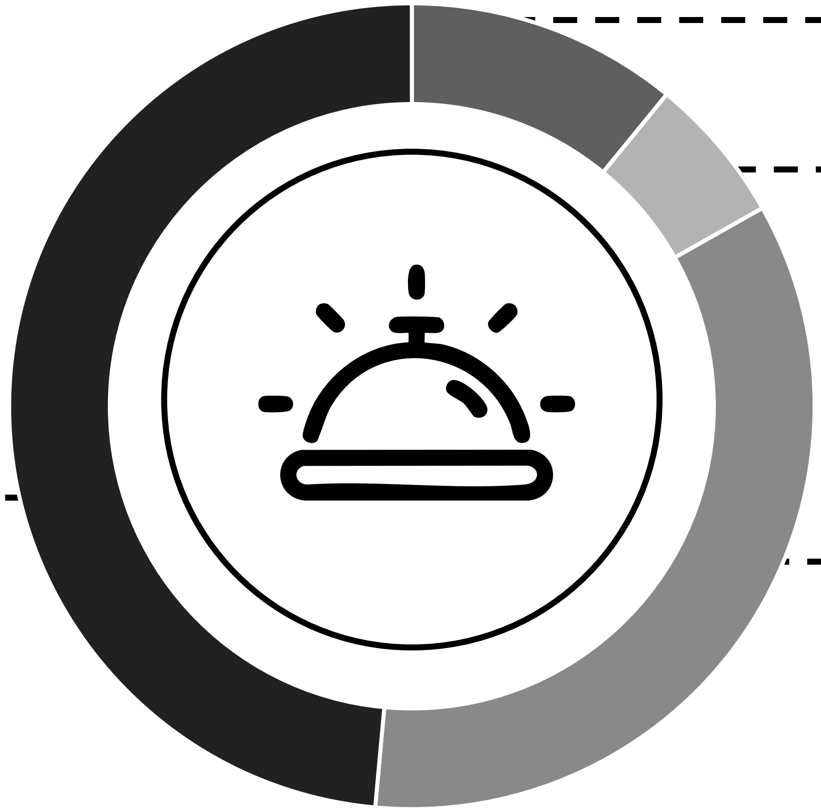
HOTEL MANAGEMENT AGREEMENTS
Agreements for hotel operations

FRANCHISES
Growing focus on franchise models, especially in inland cities

HOTEL COLLECTIVE INVESTMENT SCHEMES
Units sold to the public through collective investment contracts, regulated by the Brazilian securities and exchange commission (CVM)

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

MAIN PLAYERS IN BRAZIL



INDEPENDENT HOTELS
(UP TO 20 ROOMS)
34.6%

INTERNATIONAL BRANDS
5.9%

INDEPENDENT HOTELS
(MORE THAN 20 ROOMS)
48.5%

NATIONAL BRANDS
10.9%

Source: JLL. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

MAIN PLAYERS IN HOTEL OPERATIONS

Accor operates 337 hotels with 55,312 rooms in Brazil

Ameris operates 400 hotels with 27,215 rooms in Brazil

Atlantica Hospitality International operates 76 hotels with 11,837 rooms across 60+ cities in Brazil

Choice operates 66 hotels with 11,541 rooms in Brazil

Intercity Hotels operates 40 hotels with 6,576 rooms across 30 destinations in Brazil

Windsor Hotels Group operates 17 hotels with 4,520 rooms across Rio de Janeiro and Brasília in Brazil

Nacional Inn operates 79 hotels with 8,847 rooms across 25 destinations in Brazil

Wyndham Hotels Group operates 35 hotels with 7,832 rooms in Brazil

Source: JLL. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

MAIN PLAYERS IN HOTEL MANAGEMENT

Accor manages 147 hotels with 28,981 rooms in Brazil

Atlantica Hospitality International manages 159 hotels with 26,870 across 60+ cities in Brazil

Átrio Hotel Management manages 81 hotels with 12,143 rooms across 49 cities and 14 states in Brazil

Nacional Inn manages 79 hotels with 8,874 rooms across 25 destinations in Brazil

Intercity Hotels manages 36 hotels with 5,702 rooms across 30 destinations in Brazil

Nobile Hotels & Resorts manages 47 hotels with 4,935 rooms across 42 destinations in Brazil

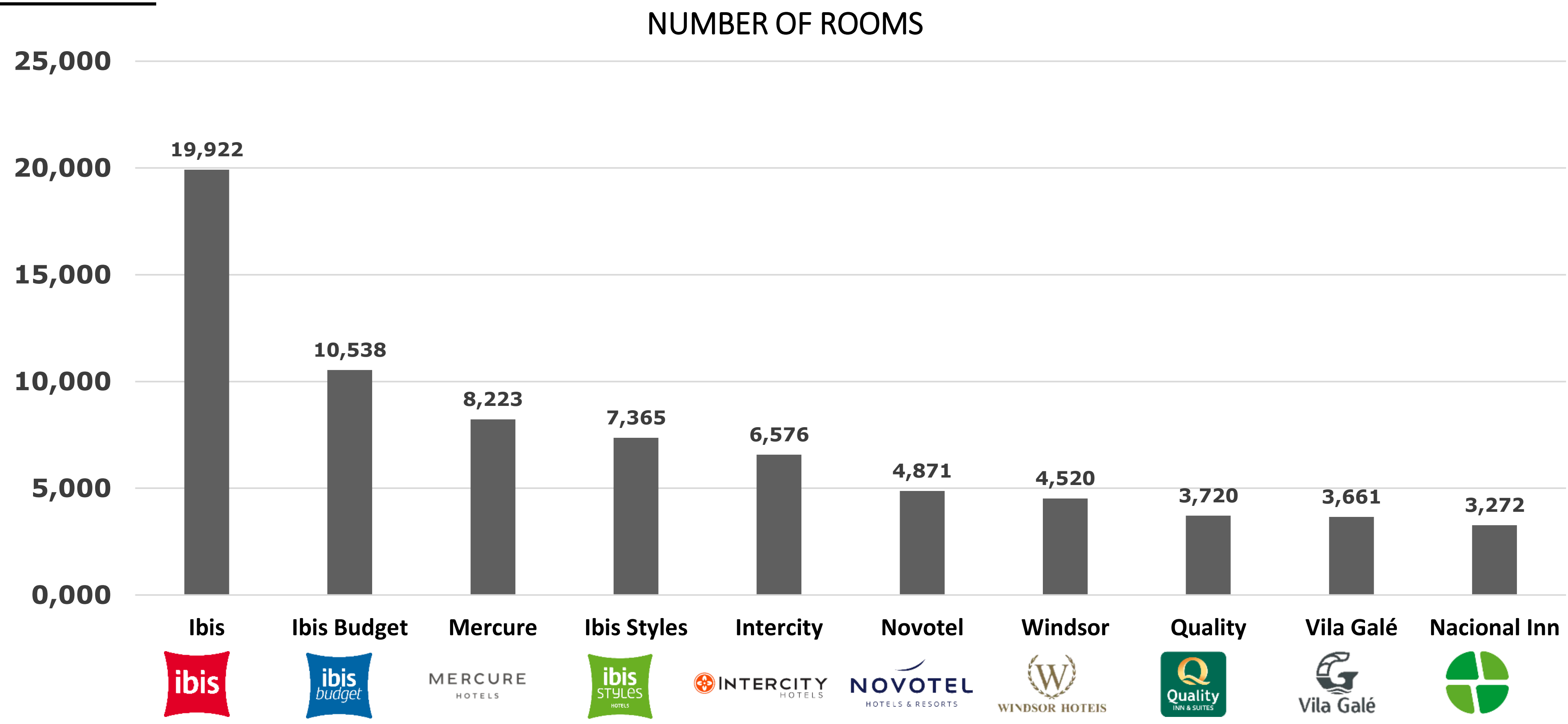
Windsor Hotels Group manages 17 hotels with 4,520 rooms across Rio de Janeiro and Brasília in Brazil

Slaviero Hotels operates 36 hotels with 4,296 rooms across 23 cities in Brazil

Source: JLL. Available here.

BRAZIL'S HOTEL
INDUSTRY OVERVIEW

MAIN BRANDS IN BRAZIL



Source: JLL. Available here.

AIRBNB

The rental of properties through **Airbnb** is not a prohibited practice in Brazil

The platform has identified Brazil as one of its fastest-growing markets globally. There are some local discussions about ruling this kind of short-term rental trying to apply the same tax burden as hotels (i.eg, in the city of Rio de Janeiro)

550,000
Properties

There are approximately 550,000 properties listed on **Airbnb** in Brazil, reflecting the increasing adoption of this rental model

According to the consolidated decisions of the Superior Court of Justice in Brazil, short-term rentals through platforms like Airbnb are permitted. However, such rentals **may be prohibited if 2/3 of the condominium owners oppose them**

REsp No. 1.884.483/PR, rapporteur Minister Ricardo Villas Bôas Cueva, Third Panel, judged on 11/23/2021, REPDJe of 02/02/2022, DJe of 12/16/2021; and
REsp No. 1.819.075/RS, rapporteur Minister Luis Felipe Salomão, rapporteur for the judgment Minister Raul Araújo, Fourth Panel, judged on 04/20/2021, DJe of 05/27/2021.

Source: GRI CLUB. Available Here.

TIME-SHARING

CONCEPT

Owners are granted a designated period annually for the exclusive use and exploitation of the property

REGULATION

Governed by Law No. 13,777/2018, which establishes the rights and obligations of co-owners in a multi-ownership regime

MARKET TRENDS

Growth in co-ownership associations and increased participation in management

Source: IBRADIM. Available here.

HOTEL COLLECTIVE INVESTMENT SCHEMES

STRUCTURE

Hotels structured as **condominium buildings** with units or unit fractions sold to the public through **hotel collective investment schemes**

REGULATION

The public offering must be registered in accordance with **CVM Resolution No. 86/2022**

It is essential to explicitly define the party responsible for the offer, establishing, where applicable, the non-liability of the hotel operator as a co-offeror. **Effectiveness limited to inter parties**

Source: CVM – Resolution No. 86/2022. Available [here].

KEY LEGAL CONSIDERATIONS

KEY LEGAL CONSIDERATIONS

Click the button to access the page directly

REAL ESTATE	
TAX	LABOR
CAPITAL MARKETS	ANTITRUST
INTELLECTUAL PROPERTY	DATA PROTECTION
CONSUMER	ENVIRONMENTAL

KEY LEGAL CONSIDERATIONS

REAL ESTATE DUE DILIGENCE

To assess the risks related to the acquisition or lease of the property subject of the hotel operation. If acquiring rural properties, consider the applicable restrictions on the direct and indirect purchase of rural properties by foreigners or by Brazilian companies that are directly or indirectly controlled by foreigners

Additionally, for both rural and urban properties located in the maritime coastline and classified as marine lands, restrictions on foreign ownership must also be taken into account

STRUCTURAL CONTRACTUAL EVALUATION

Evaluate which of the existing hotel contractual structure is most beneficial to the Company in that specific case: owned hotel, hotel management agreement, lease agreement, franchise, condo-hotel etc. and the real estate matters arriving from them (i.e., payment of condominium expenses, IPTU -urban property tax, rent etc.)

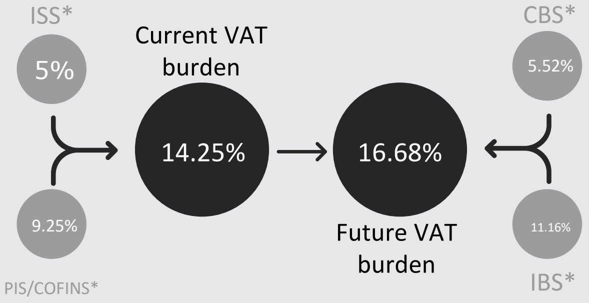
REAL ESTATE LICENSES

Obtaining all necessary licenses for the construction and operation of the hotel, including Operation License “LIF”, from the local city hall, and a Fire Department Permit “AVCB”, from the State Fire Department, which will ensure the compliance with urban zoning rules and that the building is suitable to be used for the activity being performed

LEASE AGREEMENTS

In case of opting for a lease, drawing up an agreement that includes right of first refusal procedures and an effectiveness clause to guarantee that the lease agreement will remain in force even in case of sale of the property during the term of the lease. Additionally, consider a built to suit agreement in case of greenfield or retrofit projects

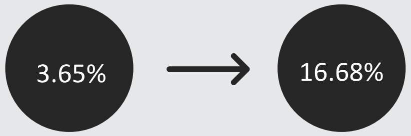
KEY LEGAL CONSIDERATIONS



TAX REFORM

The Brazilian tax reform aims at simplifying the country's complex indirect tax system by replacing 5 existing taxes with 2 new ones: the Goods and Services Tax (IBS*) and the Contribution on Goods and Services (CBS*). The IBS will consolidate state and municipal Value Added Tax (VAT). (ICMS and ISS*), while the CBS will replace federal VAT (PIS and COFINS*). The implementation of the new taxes will be gradual, to ensure a smooth change, with the full transition completed by 2033

The goal of the tax reform is to be neutral from a burden perspective, under a complete crediting system, although the final rate is still under discussion at Congress



SHORT TERM RENTAL

The recent tax reform has expanded the scope of VAT (newly introduced IBS and CBS) to include short-term rental activities. Previously, this activity was not subject to VAT. This alteration aims at levelling the playing field within the hospitality industry by imposing similar tax burdens on short-term rental businesses, to those faced by traditional hotels. This change is expected to enhance competitiveness and ensure a more equitable tax environment across different types of accommodation services

PERSE

The Perse Tax Benefit was a government initiative designed to provide tax relief to the events and touristic sectors (including hospitality) after the COVID-19 pandemic. This benefit allowed for corporate income taxes, PIS and COFINS exemptions from 2022 to 2027, provided the revenues derived from the activities set forth in the normative. However, Perse was suddenly terminated in April 2025, as the government alleged that the maximum amount of the incentive had been reached. This abrupt termination has led to adjustments in financial plans and strategies of the industry, as they had anticipated the continued support from the tax relief program

** The actual tax rates for ISS and PIS/COFINS may vary depending on the city and an entity's gross revenue. The CBS/IBS rates are currently estimates, based on the most recently published rate of 27.8% and the 40% reduction set forth in the legislation. The actual rate may vary until the legislation comes into force*

KEY LEGAL CONSIDERATIONS

MANAGEMENT AGREEMENTS

- Attention to the labor rights during the negotiation of management agreements is imperative to prevent liabilities
- Liabilities provided by law may be subject to indemnification by the hotel operator

HEALTH, SAFETY, AND WORKING CONDITIONS

- Employers must comply with regulatory norms (NRs) set forth by the Ministry of Labor, especially NR-24 (sanitary and comfort conditions), NR-17 (ergonomics), and NR-1 (occupational risk management)

HIGH TURNOVER AND SEASONAL WORKFORCE

- High turnover and seasonal workforce demand require strategic workforce management
- Investment in continuous training of qualified personnel for customer service

OUTSOURCING AND SERVICE PROVIDERS

- Outsourcing of services such as security, cleaning, or food services requires caution:
  - The hiring company may be held secondarily liable if the service provider fails to meet labor obligations
  - The company must monitor the service provider's compliance with labor obligations (e.g., FGTS, INSS, payroll documentation)

TIPS AND SERVICE CHARGES

- As per article 457 of the Labor Code, tips collected from customers (e.g., 10% service charges) must be recorded in the payroll as salary, taxed and distributed to employees

KEY LEGAL CONSIDERATIONS

Hotel developments may be financed through the Brazilian capital markets

CVM Resolution No. 86/2022 regulates public offerings of collective investment contracts related to Hotel Collective Investment Schemes ("Hotel CIC")

A Hotel CIC is defined as a set of publicly offered bonds or agreements with investors' return linked to the performance of a hotel development organized under a condominium structure (similar to a leasehold structure). Offering of Hotel CICs does not required the hiring of an underwriter

A company that operates a hotel development and acts exclusively as a Hotel CIC issuer under this rule is **exempt from registering as a securities issuer** with the CVM

The **managers of the company operating the hotel development**, within the scope of their legal and statutory duties, are responsible for ensuring compliance with the obligations imposed on such company by this Resolution

Irregular public offerings of Hotel CICs may lead to **administrative sanctions**, including fines and, in severe cases, temporary prohibition from engaging in Brazilian capital markets' activities

OTHER CAPITAL MARKETS ALTERNATIVES FOR REAL ESTATE FUNDING

Real Estate Receivables Certificates (CRI): Fixed-income securities issued by securitization companies, backed by real estate-related receivables. They enable funding of real estate transactions by anticipation of future revenues. CRIs are tax exempt securities for Brazilian individuals

Real Estate Investment Funds (FII): Collective investment vehicles that pool resources from multiple investors to invest in real estate developments or financial assets linked to the real estate sector. FIIs are tax exempt securities for Brazilian individuals

Infrastructure Debentures (Law No. 14,801/2024): Debt securities issued by companies engaged in infrastructure projects, including real estate-related infrastructure. Infrastructure Debentures are tax exempt securities for Brazilian individuals and non-resident investors

Receivables Securitization via Receivables Investment Funds: In addition to CRIs, other securitization structures—such as quotas of FIDCs (Receivables Investment Funds)—can be used to raise funds based on cash flows from real estate receivables

KEY LEGAL CONSIDERATIONS

CERTAIN TRANSACTIONS COULD REQUIRE CADE's PRIOR APPROVAL

- Certain transactions could require mandatory submission to the Brazilian Competition Authority (CADE)
- CADE is giving **special attention to acquisitions of real estate assets** and there are **recent developments in CADE's case law on the applicable criteria**
- It is crucial to analyze the applicable criteria to determine if a transaction requires mandatory notification and the limitations involved until completion of the deal

TURNOVER CRITERION

- A transaction is reportable to the CADE if involves **(i)** one party that meets the BRL 750 million threshold, **and (ii)** on the other side, another party that meets the BRL 75 million threshold
- Both thresholds refer to gross turnover or business volume in Brazil (of the parties and economic groups) involved in the year preceding the transaction

CONCENTRATION ACT CRITERION
(Examples)

- Acquisition of sole or joint control
- Acquisition of minority stakes (percentages may vary from 5% and 20% or more, depending if involving competitors and/or vertically related parties)
- Acquisition of certain types of real estate assets

KEY LEGAL CONSIDERATIONS

- **Trademark Protection:** The protection of a trademark used in Brazil is granted upon registration. Therefore, it is important to register and monitor the hotel's trademarks with the Brazilian Patent and Trademark Office (BPTO)

- **Software, Patents, and Industrial Designs:** To protect the hotel's smart room technologies, automation systems, and unique design elements, it is recommended to register them with the BPTO

CONTENT PROTECTION AND PROMOTIONAL MATERIALS USED IN HOTEL MARKETING

- **Marketing and Content Protection:** Attention should be paid to the ownership of audiovisual materials, promotional content, and digital assets used in hotel marketing

- **Advertising Compliance:** Hotel campaigns should be carefully analyzed to verify if they comply with Brazilian regulations, including the guidelines set by the National Advertising Self-Regulation Council (CONAR), to prevent allegations of misleading advertising and unfair competition

CONTRACTS INVOLVING TECHNOLOGY, IP AND LICENSING RIGHTS

- **Protection of IP Rights:** Review IP agreements – involving software, trademarks, and other IP rights - used by the hotel, to protect and define their ownership and/or licensing conditions.

- **Intragroup IP Use:** In cases where trademarks or other IP rights are exploited by different companies within a group, it is recommended to establish a trademark license agreement among these companies to formalize the right and limits to use the relevant IP right lawfully

- **Franchise Compliance:** Should the company implement its businesses in Brazil through franchising, it is paramount to assess the adherence of the documents and operations to Brazilian Franchise Law, including the Franchise Disclosure Document (FDD)

Artificial Intelligence (AI): If the hotel utilizes AI solutions in Brazil such as personalization of the guest experience, customer service automation, operational optimization, revenue management and dynamic pricing, intelligent hotel monitoring, it should pay attention to Bill No. 2338/2023 (AI Legal Framework, which is currently the most promising bill on the subject in Brazil), under discussion in the Chamber of Deputies. The AI Legal Framework will introduce a series of obligations for managing the risks associated with the technology. It is recommended for the hotel to already structure its AI governance programs to ensure alignment of technology use with business objectives and best practices, reducing risks of damages, including reputational damages.

KEY LEGAL CONSIDERATIONS

Processing personal data from individuals in Brazil requires compliance with the Brazilian Data Protection Law (LGPD)
The following key legal considerations should be integrated with the hotel's global data protection initiatives and adapted to meet the LGPD's requirements

PRIVACY GOVERNANCE

- It is necessary to have a data protection governance structure to operationalize the data protection program across the hotel. This includes appointing a Data Protection Officer (DPO) who speaks Portuguese. Additionally, drafting and reviewing the personal data inventory (ROPA), privacy policies, and risk assessments are crucial steps

DATA SUBJECT'S RIGHTS

- The hotel must address requests from data subjects — such as guests, service providers, and employees — in a timely and appropriate manner. Ensuring responsiveness to these requests is essential for compliance

CONTRACT & VENDOR COMPLIANCE

- Attention must be given to data protection aspects during the negotiation of agreements with hotel providers whose services involve significant personal data processing. This ensures that all parties adhere to the necessary legal standards

PRIVACY BY DESIGN

- Privacy by Design is important in projects that involve personal data processing, such as AI-powered services, marketing initiatives, biometric check-ins, and smart rooms. This means incorporating privacy safeguards from the inception of these projects to protect personal data effectively

CROSS-BORDER DATA TRANSFERS

- When transferring personal data from individuals in Brazil abroad — which is common in multinational groups — it is essential to ensure that the appropriate mechanisms set forth by the LGPD and regulated by the Brazilian Data Protection Authority (ANPD) are implemented. These mechanisms include standard contractual clauses, binding corporate rules, and other approved methods to facilitate lawful international data transfers

CONSUMER

KEY LEGAL CONSIDERATIONS

CONSUMER RIGHTS

Contracts must be written in the local language (Portuguese) and must contain appropriate and clear information on the services, with correct specification of features, characteristics, quality, and price. Consumers are bound by contracts only if given prior knowledge of their content. Any kind of publicity is incorporated into the contract with the customer

ABUSIVE CLAUSES

Brazilian Consumer Defense Code prohibits abusive practices and clauses, such as those that allow the supplier to unilaterally change prices, cancel the contract or modify the contents of a contract, limit or reject supplier liability due to service defects, among others. These clauses are considered null and void

PUBLIC ORDER DISCIPLINE

Brazilian Consumer Defense Code has broad protection for consumers, considering them in a disadvantaged position. In this sense, consumer's protection rules are cogent and to break them is considered as a public order offense. Protection of consumers in Brazil is subject to a greater State intervention than other private relationships

LIABILITY FOR DAMAGES

The supplier is liable under a system known as "objective liability", i.e. simply by placing the services on the market. There is no relevance if the supplier did or did not act in a faulty or negligent manner. Liability may be applied, jointly, potentially to all entities engaged in a supply chain

ENVIRONMENTAL

KEY LEGAL CONSIDERATIONS

DUE DILIGENCE

Environmental due diligence plays a significant role in assessing the compliance with the applicable laws, good practice and policies, as well as possible obstacles in the development of new hotels and associated business. Specifically for projects that interfere with specially protect areas, such as Permanent Preservation Areas, conservation units, coastal zones and protected indigenous vegetation. The environmental analysis assesses specific authorizations, environmental impact studies and potential limitations to the project

LICENSES AND AUTHORIZATIONS

Environmental licensing is the procedure whereby potentially polluting activities obtain licenses for their location, installation, construction, and operation, as established in the National Environmental Policy and the Federal Constitution. The hotel industry may be subject to environmental licensing, depending on state and municipal legislation. If the project requires vegetation suppression or water collection, specific authorizations might be required

WASTE MANAGEMENT

As the hotel industry can generate a considerable amount of solid waste, its management is a legal requirement. Hotels can be required to possess and implement a Solid Waste Management Plan (PGRS), which must include the type of waste generated, its destination and proper disposal
In addition, state and municipal legislation may establish additional rules

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OUR **FIRM**

- **Over US$ 180 billion** in M&A transactions (2015-2024)
- **One of the leaders in financing and debt securities.**
- Advice on more than **70 public equity offerings** (2015-2024)
- Advice on our clients' **most strategic disputes**, representing them in disputes before several arbitration institutions
- Strong presence in **over 25 practice areas** across **all industries**
- **Reference in business law,** with over 50 awards for transactional work and antitrust clearances
- **Latin Lawyer Elite firm** *for the 4th consecutive year*
- Clients in **over 50 countries**
- **Diversity and gender equality**: more than 50% of our legal staff are women

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IN **BRAZIL** AND IN **CANADA**

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RIO DE JANEIRO
BELO HORIZONTE
BRASÍLIA
SALVADOR
TORONTO

CESCON, BARRIEU,
FLESCH E BARRETO

OUR CLIENTS

BHG
Brazil Hospitality Group

even

Gafisa

JTB

yanolja

ACCOR

IBEROSTAR
GROUP

WISH
HOTELS & RESORTS

CESCON, BARRIEU,
FLESCH E BARRETO

OUR DEALS

ACCOR BRASIL

Elaboration of a legal opinion addressing the analysis, key legal issues, and potential alternatives for the regularization of real estate aspects of one of the client's main hotels located in São Paulo

FIESTA BAHIA HOTEL

Advice to the shareholders of a company that owns one of the most renowned hotels in Bahia on the sale of the hotel

IBEROSTAR GROUP

Drafting and negotiation of civil and real estate agreements, as well as management of the civil litigation portfolio related to the group's hotel and residential developments in Mata de São João (Bahia) and Manaus (Amazonas)

Real estate support for the residential condominium integrated into the hotel complex in Mata de São João (Bahia), including assistance with the project's future expansion. Ongoing legal support regarding LGPD compliance

GAFISA

Sale of the entirety of its interest in the "Fasano Itaim" project, in addition to the transfer of the operation of Hotel Fasano Itaim

VCI

Assistance to a company holding the rights to develop and operate Hard Rock Café Hotels in Brazil in structuring its first receivables fund (FIDC) and raising capital with Banco Itaú BBA and Urca Investimentos to finance the construction of its first two hotels, located in the cities of Fortaleza and Londrina

CESCON, BARRIEU,
FLESCH E BARRETO

OUR DEALS

GJP HOTELS & RESORTS

Public offering of real estate receivables certificates (CRI), 243rd series, issued by RB Capital Companhia de Securitização, totaling BRL 51.2 million

BRAZILIAN HOSPITALITY GROUP

Acquisition of Brascan Imobiliária, Hotelaria e Turismo, previously owned by the Brookfield Group

WTORRE HOTELS

Sale of 2.0 Hotéis, a real estate developer, to Rec Hotel

EVEN

Sale of a hotel tower in São Paulo to private equity fund H.I.G. Capital

JTB

Acquisition by JTB of Alatur JTB shares from Gare to increase its stake in the company

YANOLJA

Legal due diligence of the Brazilian subsidiary in the context of the global acquisition of Go Global Travel.

CESCON
BARRIEU

Av. Brigadeiro Faria Lima
949 10º and
Faria Lima Plaza
São Paulo - SP
T +55 11 3089 6500

Praia de Botafogo
228 15º and
Ed. Argentina
Rio de Janeiro - RJ
T +55 21 2196 9200

Rod. Stael Mary Bicalho Motta
Magalhães 521 15º and
The Plaza
Belo Horizonte - MG
T +55 31 2519-2200

SH/Sul Quadra 06 Cj. A
Bl. A Sala 506
Ed. Brasil 21
Brasília - DF
T +55 61 3030 1950

Avenida Tancredo Neves
620 Cj. 2119, 2120, 2121
Ed. Mundo Plaza
Salvador - BA
T +55 71 3039 4001

1 King Street W Suite
4800, 251
Toronto - ON
T +1 416-639-2132