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Business Angels in Brazil:

**Starting up a venture to unite Brazilian entrepreneurs and foreign
investors**

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ABSTRACT

The aim of this work is to provide the client, Business Angels Finland, with information that allows the company to better understand the dynamics of the Brazilian market and, possibly, start up a business that would link foreign investors and Brazilian entrepreneurship.

Brazil is a country of multiple faces. Understanding the pros and cons of operating in this South American giant is a key aspect for a company that wishes to enter this market.

Firstly, a general Brazilian profile is presented. Secondly, relevant aspects regarding the Brazilian business environment are covered: bureaucracy, entrepreneurial rates and attractiveness to foreign investments.

In this thesis's third part, the Business Angels concept is introduced to the reader, as well as an overview on these investors' activities in Brazil and internationally. Furthermore, the client is presented, as well as its business interests in Brazil.

Finally, the research consists of analyzing different legal types of companies accepted by the Brazilian legislation, as well as identifying the most suitable type for the client. Furthermore, the research identified the procedures foreign have to follow when investing in the Brazilian stock markets and the advantages they would enjoy if they chose to invest through the client's services instead.

Keywords: Brazil Business angel company legal types

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1. COUNTRY PROFILE: BRAZIL

1.1 General aspects

Brazil is located in South America, sharing borders with Venezuela, Guiana, Suriname, French Guiana, Argentina, Paraguay, Bolivia, Peru and Colombia. Chile and Ecuador are the only South American countries which do not have borders with Brazil. The country is touched by the Atlantic Ocean throughout its entire East Coast.

A former Portuguese colony, Brazil is both the largest Portuguese-speaking and the largest catholic country in the world. Its population is multi-ethnic, a result of the coexistence of European and Asian immigrants, African slaves – slavery was abolished in 1889 – and native Indian populations.

With 189.612.814 inhabitants, Brazil has the fifth largest population in the world, only behind China, India, the United States of America and Indonesia. Moreover, Brazil is also the fifth largest country in the world with regards to geographical area, only behind Russia, Canada, China and the USA. The country has both the largest population and geographic area among the South American countries. Regarded as a giant with continental proportions – a continent inside of Latin American, some Brazilians say – Brazil alone accounts for almost forty percent (40%) of the total Latin American population.

Brazil is the country with the richest biodiversity in the world, accounting for almost twenty percent (20%) of the world's total biodiversity. Furthermore, fifteen percent of the world's superficial drinkable water is found in Brazil, which makes it the country with the largest reserve of drinkable water in the world.

Brazil is a Democratic Federal Republic, divided into 26 states with relative political and administrative autonomy, according to the country's Constitution. The current president is Luís Inácio Lula da Silva, a former factory worker, the first representative of the Brazilian blue-collar masses to rise to power. Elected in 2008 by democratic means, he will remain in power until 2011.

In 2008 Brazil was ranked as the tenth world's largest economy with regards to market exchange rates, which also placed the country as the largest national economy in Latin America. Furthermore, the country occupies the position of ninth largest country in purchasing market parity, according to the World Bank and the international Monetary Fund. Brazil's admission in the G8 has been considered as the international community. The French president, Nicolas Sarkozy, is one of the authorities defending Brazil's admission in the restricted group.

Brazil's major export products are soybean, orange juice, iron ore, steel, ethanol, textiles, footwear, beef, electrical equipment, automobiles and aircrafts.

Brazil's annual economical growth rates vary between 4 and 8%. In 2008, while the world experienced a severe financial crisis that led many countries to recession, Brazil's growth rate was 5%, while the USA's growth rate was as low as 2%, showing that the South American country was not severely affected by the crisis.

1.2 Bureaucracy: The Ease of Doing Business Index

In order to demonstrate the level of difficulty that entrepreneurs have to face when establishing a business in Brazil, the ease of doing business index will be used.

The World Bank, through extensive research, created a ranking that measures the easiness of doing business in countries across the globe: The **Ease of Doing Business Index**. Higher rankings indicate better, usually simpler, regulations for businesses and stronger protections of property rights.

Ten main topics are evaluated for the calculation of the Ease of doing business index:

- Starting a business - Procedures, time, cost and minimum capital to open a new business
- Protecting investors – investor protection index
- Dealing with construction permits - Procedures, time and cost to obtain construction

- Permits, inspections and utility connections
- Hiring and firing workers - Difficulty of hiring index, rigidity of hours of index, difficulty of firing index, hiring cost and firing cost
- Registering property - Procedures, time and cost to register commercial real estate
- Getting credit - Strength of legal rights index, depth of credit information index
- Paying taxes - Number of taxes paid, hours per year spent preparing tax returns and total tax payable as share of gross profit
- Trading across borders - Number of documents, number of signatures and time necessary to export and import
- Closing a business - Time and cost to close down a business, and recovery rate

The index does not take into consideration the economy's proximity to large markets, the quality of its infrastructure services and other external factors. All indicators refer to a specific type of business. Therefore, the data is comparable across-economies.

In 2009, the World Bank published its latest Ease of Doing Business ranking, which is presented below.

Economy	Ranking position
Singapore	1
New Zealand	2
United States	3
Hong Kong, China	4
Denmark	5
United Kingdom	6
Ireland	7
Canada	8
Australia	9
Norway	10
Iceland	11
Japan	12
Thailand	13
Finland	14
Georgia	15
Saudi Arabia	16
Sweden	17
Bahrain	18
Belgium	19

Malaysia	20
Lesotho	123
Bhutan	124
Brazil	125
Micronesia	126
Tanzania	127
Morocco	128
Indonesia	129
Gambia	130
Congo, Dem. Rep.	181 ¹

Brazil is ranked in the 125th position out of 181 national economies on the ranking that measures the ease of doing business. As the holder of the first position, Singapore bares the title of easiest country in the world for doing business, whereas the Democratic Republic of Congo, holder of the last position in the ranking, is the country in the world where doing business involves the most complicated sequence of procedures.

The Ease of doing business index demonstrates that Brazil is a country where establishing and maintaining businesses involve large amounts of bureaucracy. The bureaucratic burden that entrepreneurs have to cope with has been under discussion for decades and, although a few improvement measures have been taken in this period, there is still much to be done.

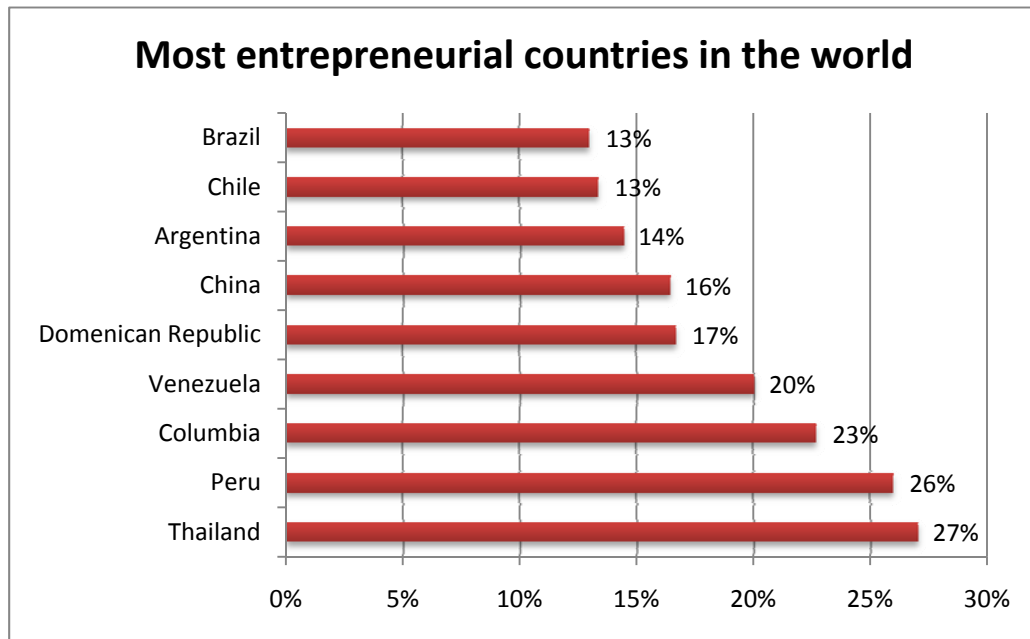
Within Brazil, starting a business is easiest in the states of Minas Gerais and Rio Grande do Sul. It is most difficult in São Paulo, Ceará, and Maranhão, according to researchers conducted by the World Bank.

1.3 Entrepreneurial Brazil

In 2008, the Global Entrepreneurship Monitor (GEM) ranked Brazil as the ninth most entrepreneurial country in the world. There are about 15 million entrepreneurs working on businesses which are in a initial stage (implementation stage or less than 3,5 years old), a number that represents 13% of the Brazilian adult population.

¹ The World Bank Group

According to the GEM, the countries which show higher rates of initial entrepreneurial activity are Thailand (26,9% of the Thai adult population are entrepreneurs working on new businesses), Peru (25,9%), Colombia (22,7%), Venezuela (20%), Dominican Republic (16, 75%), China (16,4%), Argentina (14,4%), Chile (13,4%) and Brazil (13%) as shown on the graph below:



The eight countries which showed the lowest rates of initial entrepreneurial activity are Japan (4,3%), Sweden (4,1%), Romenia (4%), France (3,2%), Belgium (3,1%), Porto Rico (3%), Russia (2,7%) and Austria (2,4%).

The Gobal Entrepreneurship Monitor is a research program conducted by London Business School and Babson College which annually assesses the national level of entrepreneurial activity for over fifty countries in the world, which altogether represent 95% of the World's Gross Product and 2/3 of the world's population.

The same research demonstrated that for each Brazilian who starts a business due to his survival needs, two others start a business looking forward to exploring business opportunities. It means that the ratio between opportunity entrepreneurship and survival entrepreneurship is 2:1. The Global Entrepreneurship Monitors considers the analysis of this ratio very important in order to identify the nature entrepreneurial development in a given country. High opportunity entrepreneurship

rates, for instance, are seen as positive, due to the innovative nature of businessmen who act guided by market opportunities.

1.4 Foreign Investments in Brazil

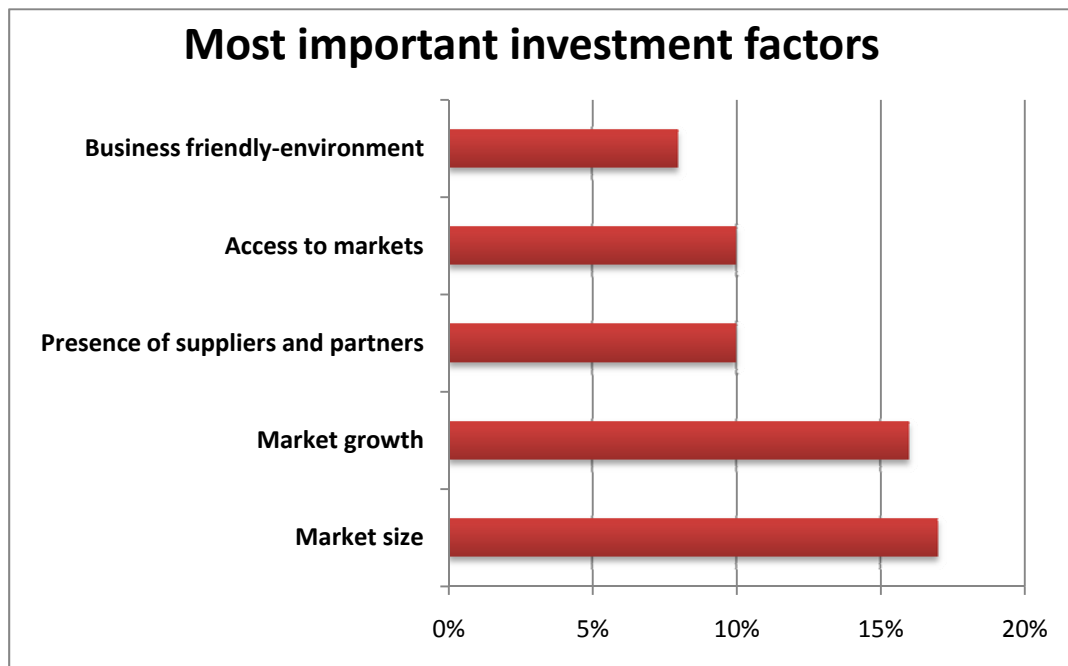
The Unctad's (United Nation Conference on Trade and Development) world investment prospects survey, released in July 2009, showed that Brazil is the fourth preferable country for foreign investment from large companies this year and it will most likely hold this position at least until 2011. China, USA and India appear successively on the first, second and third positions. Unctad heard over 240 multinationals.

Fifty-six percent (56%) of the interviewed multinationals demonstrated interest in investing in China. Forty-seven percent (47%) of them were interested in investing in the USA. The interest of foreign multinationals in directing investments towards the USA is verified due to the breakage of several American companies during the economical crisis that swiped the world during 2008 and 2009, opening opportunity for foreign companies to enter the American market. Finally, India and Brazil attracted, respectively, twenty-five (25) and twenty-one percent (21%) of the multinational's investment intentions.²

With regards to European multinationals, Brazil was again the fourth most targeted country for investments, ranking higher than Russia and the United Kingdom, for instance. For American companies, Brazil appears as the fifth most targeted country for investments, ranking higher than the United States of America.

The graph below shows what factors international companies consider the most relevant when investing abroad, in order of mention.

² *World Investment Prospect Survey 2009- 2011. Released on 22/07/2009, by United Nations Conference on Trade and Development*



When deciding where to invest, companies pointed the size of the targeted market as the most important factor, being mentioned by 17% of the interviewed. Growth of market is the second most relevant factor, being mentioned by 16% of the interviewed. Presence of suppliers and partners is the third (10%), access to regional and international markets is the fourth most important factor (10%) and finally, stable and business-friendly environment is the fifth most important factor, being mentioned by 8% of the interviewed. With regards to Brazil, specifically, 20% of the companies that showed interest in investing in Brazil said they were attracted by the size of the market and 19% pointed the market growth perspective as an attraction factor.

2. BUSINESS ANGELS

2.1 Concept

The term “angel investor” was forged to design individuals who financed Broadway shows. They provided show organizers with capital to put up their performances and expected to own part of the financial returns. Nowadays, an angel investor is defined as a person who provides capital to finance a private business owned by someone else and expects to receive financial returns from this investment.

Typically, angels invest locally and in business fields they are familiar with, as a strategy to control the risks involved in the investment. Business angels are often successful entrepreneurs who seek for new forms of investments.

There are active and passive angel investors. Active angels invest time, as well as money in the ventures they patronize. They use their expertise and experience in numerous business fields to provide advising and management insight to the entrepreneurships they invest in.

Passive angels limit their investments to the provision of capital. Studies show that twenty percent (20%) of angels don't interfere in the management of the ventures they invested in.³

Accredited angel investors also invest collectively in “angel groups.” It is estimated that the USA counts from 125 to 300 angel associations.⁴ It is important to notice that traditional sole- angel investments account for seventy percent (70%) of all capital invested by angels, which means that angel associations still have a secondary role in the angel's participation in the market.

Although angel's investments are far from being the only source of external capital for fund-seeking entrepreneurships, their importance is undeniable. In 2002, the USA saw 40 billion being invested in about 50.000 ventures by 400.000 angels.

³ Original Source: Van Osnabrugge, M. 2000. A comparison of business angel and venture capitalist investment procedures: An agency theory-based analysis. *Venture Capital*, 2(2): 91-109

2.2 Business Angels Icons

In 1994, Hans Severiens founded the first and best-known angel investment organization – Silicon Valley’s “Band of Angels.” The Band of Angels began with twelve members, but by 1998 it had grown to 110 members. Nowadays, the “Angel Capital Association” is the leading angel investment organization (AIO) in the United States, with 114 full-members.

One of the most famous angel investors of all times is Andy Bechtolsheim, one of the founders of Microsystems and one of first investors to deposit his trust on google. He signed a check worthed of U\$100,00 for Sergey Brin and Larry Page, the founders of Google, after they just told him the principles of the business they intended to found. Later, other angel investors, such as David Cheriton, Jeff Bezos and Ram Shiram had an import role for Google’s initial steps. Search engines were considered a field of low profit margins, part of an industry which was dominated by Yahoo and Inktomi, but those investors were able to see Google’s potential. They invested in a highly risky market and harvested unimaginable profits at the end.

Skype is another internet-based company that flew high thanks to business angels. Skype released the first version of its software, which allows people to make free voice and video calls over the internet in 2003. The development and release of this software, an absolute success depended on the seed capital that the company obtained from private investors, business angels, a year before the product release. In 2005, only 2 years after Skype was presented to the public, Skype Technologies SA was acquired by eBay for U\$ 2.6billion.

Niklas Zennstrom and Janus Friis, the Swedish founders of Skype, became young millionaires thanks to the deal, while the business angels that invested in Skype during its earliest stages saw their investments multiplied by 350 times.

2.3 Business Angels in Brazil

In Brazil, researches profile angel investors as well-educated individuals between 45 and 55 years old and with high social and economical status. Brazilian angel investors

are usually active and often have multiple investments (up to 4 ventures at a time). They are demanding when choosing which ventures will receive their capital, rejecting ninety-seven percent (97%) of all proposals which are introduced to them. In average, Brazilian business angels invest between R\$ 15,000 and R\$300,000.

In Brazil, the angel's participation in the economy is still insipient, but going through a growing process. In 2006, Brazilian angels injected R\$2 billion in new ventures, an amount which is far from being as significative as the American. It is estimated that Brazil has 200,000 potential angels who could invest up to R\$ 5 billion in local ventures, which means that the angel investment market still has a huge scope to grow.

Gávea Angels was born in 2002. It was the first angels organization in Brazil. Gávea is not a profit-seeking organization and it focuses in linking investors and needy ventures around the city of Rio de Janeiro. According to the own organization, Gávea Angels has already received over 300 business plans from capital-seeking entrepreneurs. From those, only 2 percent received the angel's capital.

In 2007, 14 angel investors gathered and formed the "Floripa Angels", in Florianópolis, a major capital located in the South of Brazil. The organization's founder, Marcelo Cazado, a former executive for multinationals such as Coca-Cola and Acenture, decided to establish the organization due to Florianópolis' status as one of Brazil's techno-poles, including the position of one Brazil's national leaders in the video game market. Cazado saw an immense business potential in the city.

In Bahia, the largest northern state in Brazil, a local angels network was founded also in 2007, with the objective of assisting local economical growth and providing advantageous business opportunities for local investors.

The largest Brazilian city, São Paulo, counts with two main angels organizations: São Paulo Angels, created through the gathering of 30 angel investors, and Confrapar. São Paulo is often referred as the financial heart of Latin America, due to its position as detainer of the largest stock exchange in Latin America and third largest in the world, with regards to market value. Thus, the importance of organizations which take of responsibility of linking such huge amounts of capital to starting ventures is undeniable.

3. THE CLIENT

3.1 Business Angels Finland

Business Angels Finland Oy was founded in May 2008, but only begun its activities in June 2009. The company's headquarters is located in Helsinki.

Business Angels Finland is a private venture that offers a safe and reliable web-based environment where private investors, also known as "Business Angels", and capital-seeking entrepreneurs can meet.

Capital-seeking entrepreneurs pay a small membership fee in order to get the right to post on the website an ad which contains the principles of their business idea and the sum they are looking for. Investors, also upon the payment of a small membership fee, have access to the ads and can choose in which businesses they are interested in investing. Business Angels Finland is the middle-agent that brings both parties together.

This model has been operational for decades in many countries, having proved its efficiency. Now Business Angels Finland brought this door to new business opportunities also for Finnish entrepreneurs and investors.

The company's operations are entirely web-based and clients can have access to all services through the link www.businessangels.fi.

3.2 Business Angel's Finland interests in Brazil

The client currently studies the possibility of expanding Business Angels operations to Latin America. As previously shown, Brazil has proved to be an attractive investment polo and the client studies it as an alternative place to conduct the company's activities expansion.

The client's vision for Business Angels Brazil differs in some aspects from the Finnish mother-company. Business Angels Brazil intends to be a portal where Brazilian start-up

and established companies can post ads in which they describe general informational about their businesses -such as the nature of the business, the business field in which it is inserted, the size of the company and its location – and request capital for the company’s activities from those who are interested in investing in the company and harvesting future profits. The main difference between Business Angels Finland and Business Angels Brazil is that while the first one targets national investors, Finnish investors, the second one will target foreign investors, non-Brazilian investors.

Business Angels Brazil intends to function as a broker between foreign investors and capital- seeking Brazilian entrepreneurships. Business Angels Brazil will seek for outside investments for those Brazilian companies that request capital on the portal. Furthermore, the second main difference between the mother company and its Brazilian version is that besides seeking for investments for those companies that have declared to need it, Business Angels Brazil also plans to seek for specific investment opportunities that foreign investors may require. For instance, if an European businessman wishes to invest in the Brazilian biofuel market, Business Angels Brazil will seek for Brazilian companies acting in this field and in need of outer investments.

Once the foreign investment is placed in the Brazilian company, a commission is ought to be paid to the broker by the company that received the investment.

The client, Business Angels Finland, has doubts with regards to the legal and bureaucratic procedures that should be taken into consideration when establishing a company of this nature in Brazil.

The main legal aspect to be studied is the legal category in which the company will be inserted. The Brazilian legislation specifies numerous juridical company categories and, when starting up a business in Brazil, entrepreneurs should be attentive with regards to which legal type their companies will be registered as. Each legal company type implies in different rules with regards to acquisition, ownership, liabilities, administration, company’s extinction and other aspects. Therefore, the choice of the most appropriate company legal category is crucial for any company that wishes to establish successful operations in Brazil.

Once the correct company type has been identified, entrepreneurs will have to know which bureaucratic procedures they will have to go through in order to properly open, register and run their businesses in a country that ranked as the 125th in the Ease of Doing Business Ranking in 2008, proving to be a complicated business environment.

4. FOUNDING BUSINESS ANGELS BRAZIL

4.1 Legal type of company

In Brazil, bureaucracy is very present in all governmental and private spheres. When starting a new company, one's main concern should be how to deal with Brazilian innumerable regulations in the most efficient way.

In the Brazilian legal system, companies have their own juridical personality, which means that they are juridically distinct from their owners. Therefore, the own company will be the holder of rights and duties, which means that the company holds its own patrimony and debts, separately from its owners.

The Brazilian Civil Code describes five different types of companies accepted by Brazilian legislation. The subject is covered from provision 966 to provision 1195 of the referred legal diploma. Taking into consideration the organizational structure that Business Angels Finland intend to adopt in Brazil, we mainly studied three types of legal organizational structures in order to establish the most suitable for the client: "sociedade simples" (sole partnership), "sociedade limitada" (limited liability company) and "sociedade anônima" (incorporated company).

4.2 Limited Liability Company: Sociedade Limitada

A limited liability company ("sociedade limitada") is formed by two or more people who, through the establishment of a contract, gather to create a company. The company's capital is divided into quotas and the liability of each member is limited to the amount that he or she invested in the society.

The word "limitada" (limited), which sometimes is abbreviated as "Lda." or "Ltda", must be present at the end of the company's name. The lack of such word incurs in the pre-assumption that member's liability is unlimited.

The juridical personality of a limited liability company starts with the company's registration at "Junta Comercial", the responsible commerce institution. Such registration is demanded by provision 45 of the Brazilian Civil Code.

It is a widely used legal company type in Brazil, especially for small and middle-sized companies.

The member that signs the social contract agrees to invest a certain amount of resources in the company. He may invest money, goods or credit. The Law explicitly eliminates to all members the possibility of investing their time and work; the investment must be of a financial nature. Thus, each member has the obligation of actually depositing his quota in the social capital. His quota is the amount he agreed to invest upon the signature of the contract. The member who does not deposit his quota before the set deadline will be responsible for indenizing the company for the damages he may have caused with his delay.

As previously mentioned, the main trait of limited liability companies is the fact that member's liability is limited to the investment quota he subscribed to the company. Such reduced and limited liability was designed as a motivation to entrepreneurs who would otherwise fear unlimited risks when venturing in the business world.

If the establishment of a limited liability company is advantageous to the company owner's, on the other hand, it incurs in disadvantages to the company's creditors. Since the company's liability is restricted to its own patrimony, creditors may be at risk of not having their credits satisfied in case of company's insolvency.

Other companies that negotiate with a limited liability company may include extra fees and contractual provisions in order to protect them from eventual insolvency. However, there are creditors who do not have this possibility, such as the State, workers and consumers. That is the reason why Jurisprudence has accepted exceptions to the limited liability of "sociedades limitadas". The most recurrent exception is observed in case of company's debt upon its workers. Brazilian Supreme Court's Jurisprudence accepts that when the insolvent company's capital is not enough to pay off its debts with its workers, it is acceptable that the company owner's personal assets are used to extinct the debt. Such exception to the fundamental principle of "distinct juridical personalities" is made in order to protect employee's salaries, which are the source of living conditions to all workers who depend on their wages to afford themselves and their families.

4.3 Incorporated Company: “Sociedade anônima”

Sociedade anônima is a type of company, according to the Brazilian Legislation. The company's capital is divided into stocks which can be freely negotiated, without vinculation to a specific holder's name. The total company's capital is divided into equal stocks, which means that each stock represents a “x” portion of the company's total market value and all stocks have the same value.

According to Law number 6.404/15.12.1976, the legal diploma which regulates this company model, the incorporated company model can be subdivided into two types: closed and open incorporated companies. Open incorporated companies, known as “sociedades anônimas” in Brazil, have their stocks sold and bought in the stock market, whereas the closed ones have their stocks negotiated directly from the current owner to a new owner.

Companies which adopt this model must include the abbreviation S.A, SA or S/A to the end of their names.

According to the first provision of the referred Brazilian Law, the stock holder's liability is limited to the value of the stocks he owns. Therefore, the stock holder's personal assets are immune from any alienation requests that may result from the company's debts. Debts must be paid exclusively with the company's patrimony.

The investor who is willing to invest in a company which adopts the sociedade anônima type must invest through the acquisition of stocks. The investor does not have the possibility of investing his time and work; the investment must be done through the movementation of stocks.

The Law demands the establishment of a management council, formed by stock owners, which must be composed of a minimum of 5 members who will integrate the General Assembly, the Financial Council and the Directory. Therefore, an incorporated company cannot be formed by fewer than 5 stock holders.

4.4 Civil Partnership (“Sociedade Simples”)

It is a special kind of partnership, since the bond between owners is not financial; it is professional. The partnership’s establishment contract connects professionals who work in a field, a field that has a scientific, intellectual or artistic nature, as exposed by provision 966 of the Brazilian Civil Code. For instance, a group of lawyers that decide to establish a Law firm could use this company model, since they are professionals which are brought together for the development of an intellectual economical activity. The same can be said for architects or painters. It is important to notice that the adoption of this model is not a must, it is a possibility which is brought to the owners. They may choose a civil partnership (“sociedade simples”) due to its simplicity and uncomplicated establishment procedures, or they may choose one of the company models described by the Brazilian Civil Code.

Provision 1023 of the Brazilian Civil Code establishes the owner’s liability as being unlimited and shared.

Their liability is unlimited because not only the partnership’s assets can be confiscated to assure the payment of company’s debts, but as partner’s own personal assets may be used as well. It means that if the company’s total capital is 10,000 € and debts sum up to 12,000 €, the remaining 2,000 € will be found from the owner’s personal assets, such as personal bank accounts, cars and real state properties.

The owner’s liability is shared because one single partner can be legally obliged to personally pay the full extent of the debt. Using the previous example, if the company has two partner’s and the company’s debts exceed its capital in 2,000 €, each owner will have the duty of extinguishing the debt by using 1,000 € out of his own personal patrimony. However, if, for instance, owner A is nowhere to be found, owner B will have to pay the full amount, 2,000 €, as in a civil partnership the liability is shared. Owner B will, obviously, have the right to reclaim 1,000 € from owner A, but he will not have the possibility to deny executing the payment on his partner’s behalf.

It is important to emphasize that civil partnerships are not companies, as the own name demonstrates. Although it is often designated by the term “company”, civil partnerships

are not properly companies for the Brazilian Law. As they are civil partnerships formed by professionals who will offer their expertise in exchange for wages and commissions, a registration at the local Registry of Trade “Junta Comercial” is not necessary. The new business partnership that adopts this model will have to be registered at the local “Cartório de Registro Civil das pessoas jurídicas”, or “Juridical Personality registration office”, in free translation.

4.5 Limited Liability civil partnership: “Sociedade Simples Limitada”

Studying the conjunction of articles 983 and 1150 of the Brazilian Civil Code, it is verified that civil partnerships have the option of choosing to limit their owner’s liability.

Article 983 infers that companies must be formed according to one of the legal types described from articles 1039 to 1092 and that a civil partnership, known as “sociedade simples” in Portuguese, has the option to be established according to one of the models described in the referred provisions. If the civil partnership chooses not to incur in any of those models, it will be regulated according to the civil partnership’s own rules. In other words, a “sociedade simples” has the option of being purely itself, or to be regulated according to rules established for one of the other legal types it can fuse with.

Article 1150 specifies that civil partnerships must be registered at “Registro Civil das Pessoas Jurídicas” (Juridical personality registration office) and all other legal company types must be registered at “Junta Comercial”. If a civil partnership adopts one of the other models as a complementation, it will have to be registered at “Junta Comercial”.

Therefore, if a “sociedade simples” chooses to be regulated by rules established for one of the other types and it executes its registration at the local Registry of Trade, “Junta Comercial” in Portuguese, it will incorporate elements of the chosen legal model. If the chosen model is a limited liability company, the owner’s liability will be regulated accordingly to the rules established for sociedades limitadas. Thus, in a limited liability civil partnership, owner’s liability is limited to the investment quota he subscribed to the company.

4.6 Business Angels Brazil legal company model

According to the client's company vision, three legal company models seemed to be suitable for Business Angels Brazil's needs. Those three legal types were further studied, through the reading of Brazilian legislative diplomas, law books and the consultation to law professors from the University of São Paulo. Finally, the model that proved to be the most suitable for the client's needs is "sociedade simples limitada" (limited liability civil partnership).

Incorporated companies presented the disadvantage of being disauthorized by law to receive investments in the form of time and work. The client has manifested its wish to possibly acquire Brazilian associates who would be specialists in the fields of Law and investments. These associated would deposit their contribution to the company in the form of their services, which is not legally possible in a Brazilian incorporated company.

Incorporated companies, "sociedade anônima" in Portuguese, was widely incongruent with the company structure the client plans to establish. Firstly, this is a legal type which is used for large-sized companies that wish to capture outer investments, often from the stock market. Business Angels Brazil intends to start as a small consultancy and broker firm, with operations concentrated on the internet, and without any intention of joining Bovespa, the main Brazilian stock market. Secondly, the law demands a minimum of five partners for the establishment of a sociedade anônima and the client does not intend to have more than four. Thirdly, as limited liability companies, the legal form of company known as "sociedade anônima" in Brazil is not compatible with investments in the form of time and work.

Limited liability civil partnership is the most suitable legal type of company for Business angels Brazil due to its conjunction of descriptive elements: liability terms, possibility of different investment forms and registration process simplicity. It unifies all positive aspects from sociedade simples and from sociedade limitada in a unique legal form.

In a company that adopts the limited liability civil partnership form, member's liability is limited to the investment quota he subscribed to the company, following the liability

model applied for limited liability companies. Such reduced and limited liability is attractive for those who intend to start up highly risky businesses. On the other hand, following aspects inherited from the sociedade simples model, in a limited liability civil partnership investments in the form of time and work are also possible. Therefore, the client could, as intended, search for partnership with professionals who are specialized in law and investments and these professionals could offer their knowledge and expertise as their investment for the company. Furthermore, this model demands the existence of only two partners for its establishment.

Following the requirement established for limited liability companies, limited liability civil partnerships also need to have their registration done at “Junta Comercial”, the responsible commerce institution. Moreover, the name of the company will also have to be followed by the abbreviation “Lda.” or “Ltda”.

5. FOREIGN PRIVATE INVESTORS IN BRAZIL

5.1 Definition

The Brazilian legislation uses the domicile criteria, and not the nationality parameter, to distinguish foreign from intern investors. Thus, foreigners living in Brazil are regarded as internal investors, whereas foreigners and Brazilians living abroad are regarded as foreign investors.

Resolution 2.689/00 has established that all non-resident investors, whether individuals or legal entities, may invest their funds in the same financial and capital market instruments as Brazilian residents are allowed to. Such resolution has made Brazil more interesting for foreign investors, since many developing countries restrict investment possibilities for outside capital.

5.2 Investing in the Brazilian Stock Market

In order to invest in the Brazilian stock market, all foreign investors must nominate a legal representative, a tax representative and a custodian.

The legal representative is responsible for presenting all required documentation to Brazilian authorities. The Brazilian authorities which are responsible for ensuring the legality of all foreign investments are: Comissão de Valores Mobiliários (CVM),o Banco Central do Brasil (Brazilian Central Bank) and Secretaria da Receita Federal (Tax office). If an individual, the legal representative must be a resident in Brazil. If a Corporation, it must be legally established, organized and able to operate within the country. In the case it is a non-financial corporation, the investor must, in addition, nominate a financial institution properly authorized by the Brazilian Central Bank, which will be co-responsible for the fulfillment of the obligations provided by the regulations.

The tax representative is responsible for representing the investor upon Brazilian tax authorities.

The custodian is responsible for keeping all documents updated and controlling all the foreigner investor's investments in Brazil. Moreover, he should be able to provide Brazilian authorities with all documents that prove the investor's activities in Brazil.

5.2.1 Registries and procedures for investments in the stock market

Before beginning operations and after filling in the identification form⁵ the investor must, through his representative, obtain the registry at the Brazilian Comissão de Valores Mobiliários (CVM), the Brazilian governmental institution responsible for supervising activities in the stock market. The registry is done at CVM's website (www.cvm.gov.br). The website has an English version which contains all necessary forms and even regulations which are relevant for foreign investors. It is clear, easily navigable and well-organized.

“Comissão de Valores Mobiliários” is responsible for providing the registry within 24 hours after the representative's request. Once registered, non-resident investors will receive an identification code. The registry code attributed by CVM must be identified in all operations performed by the investor.

Foreign investments entering the country must be registered at the Central Bank through electronic means (RDE – Electronic Declaratory Registry). The initial electronic declaratory registry must be updated with all occurrences (capital gains, losses, transfers and etc). In case of non-compliance with regulations, the Central Bank may suspend the registry and capital movements will be interdicted until all irregularities are corrected.

Non-resident investors must hold a CPF⁶ (cadastro de pessoa física) in order to be able to invest in financial and capital markets in the country, as well as in order to acquire any property located in Brazil. CPF is a social security identification number that all Brazilians over 18 years old possess. It is used as identification for property acquisitions, by tax offices when following individual's financial activities and by welfare offices. The CPF's nature is very similar to that of Finnish “socialiturvatunnus”. Foreign residents may acquire CPF from the Brazilian embassy in the country they live.

⁵ See annex 1

⁶ See annex 2

It is the only Brazilian document accessible by all foreigners, independently from their family, residency or business connections with Brazil.

5.2.2 Reporting to Brazilian authorities

Non-resident investors must report to the Brazilian Central Bank on a monthly basis, up until the fifth working day of the subsequent month, regarding the capital's situation and transactions. Furthermore, the investor's representative must submit, also on a monthly basis, the investor's personal information, in order to maintain the information bank updated. The name of the form to be submitted is "informe de investidores não-residentes por titular" (information on non-resident investors by holder). The form is available on CVM's website.

5.3 Investments in the form of currency

If a non-resident wishes to invest in a Brazilian company in the form of currency, without using the stock market as intermediate be a Brazilian CPF holder. After acquiring his CPF from the Brazilian embassy where he lives, the investor must register the capital through RDE-IED ("Registro Declaratório Eletrônico- Investimento Externo Direto"), which stands for "Electronic Declaratory Registration – Direct Extern Investment". RDE-IED is part of the Brazilian Central Bank Information System and registrations may be done online through the Central Bank's website.

Preliminary official authorizations are not required for investments in currency made out of the stock market. Foreign investments in the form of currency directed to Brazilian companies may be sent through any bank authorized to deal with foreign currency. The acceptance of such investments is limited to the existence of a valid RDE-IED registration number. After the placement of the investment, the Brazilian company receiving the investment and/or the investors must make the RED-IED system aware of the occurrence of such transaction, under the penalty of invalidation of the desirable transactions, as well as applicable fines

5.4 Remittance of profits

There are no restrictions on the remittance of profits originated from the investment of foreign capital in Brazil. Investors may remit their profits to their home countries at any time, provided that the initial investment was properly registered with the Brazilian responsible authorities. There is no incidence of income tax withholding on the remittance of profits for both investments in currency and investments made through the stock market.

5.5 Repatriation of capital

Preliminary authorization is not needed when repatriation foreign capital invested in Brazil, provided that it is properly registered with the Brazilian Central Bank.

According to article 690 of the Brazilian Income Tax Regulation Law, released in 1999, foreign capital registered with the Central Bank is exempt of taxation up to the limit of the amount that was initially registered. Thus, when the repatriating capital exceeded the initial amount (capital gain), the exceeding amount will be subjected to 15% of income taxation.

Since remittance of profits and repatriation of investments are all based on the amount of foreign capital initially registered, remittance of profits or repatriation of capital which are not properly registered and updated in the RDE-IED system will be subjected to blockage and further investigation conducted by Brazilian authorities.

5.6 Business Angels Brazil

Business Angels Brazil intends to provide a connection gate between Brazilian capital-seeking companies and sole-entrepreneurs and foreign investors wishing to invest in the fast-growing, developing Brazilian economy.

Investing in a foreign country when local language, economic structures and traditions are unknown may be a deal-breaker situation for most investors. If finding investment scopes in unknown locations is already a major problem, dealing with the local bureaucratic structure may be seen as an impossible task for many businessmen, especially when referring to a country like Brazil, where bureaucracy is already part of society's core structure.

Without means to reach smaller and even perhaps more advantageous investments poles in foreign countries, courageous investors, those who control the fear of investing in foreign countries which are unknown to them but markedly guaranteed fast return-on-investment economies, usually choose to invest through the target country's exchange market. In many cases, the exchange market can be the easiest way to place investments in a foreign country: it neutralizes the language barriers, since stock exchange web pages are often displayed in English, and concentrates a wide-range of investing possibilities in a single portal, facilitating investor's searches.

However, investing in the Brazilian stock market involves numerous bureaucratic procedures and registrations. It is a highly time and money-demanding investment approach. Furthermore, companies listed in the stock market are, in their majority, large incorporated ventures. Investing in well-established large incorporated ventures offers low risks, which also infers lower profits than when investing in risky businesses or in businesses which are still in their implementation stage.

Investors may turn to Business Angels Brazil when wishing to invest in Brazil in currency, without taking part of the stock market. As previously demonstrated, investing in currency is a bureaucracy-free way to approach the Brazilian investment market. Business Angels Brazil would bring down the barriers that could otherwise stop investors from investing in a foreign country without the aid of the local stock market: difficulties to find investment possibilities, lack of knowledge regarding the local legal and administrative systems, language barriers and other communication difficulties that may arise between foreign investors and local entrepreneurs.

6. CONCLUSION

One of the richest and fastest growing economies in the world, Brazil is an attractive investments receptor for both international companies and international private investors. However, when searching for investment opportunities abroad, private investors often face obstacles such as language and knowledge regarding the local economy, legal and bureaucratic aspects.

Aiming to fulfill this market needs, Business Angels Finland plans to create an internet-based portal that links capital seeking entrepreneurs and foreign investors with capital to invest in Brazilian businesses which are not listed in the stock market. Additionally, Business Angels Finland plans to provide foreign investors with all the information they will need when placing investments in Brazil: legal procedures, registration requirements and others.

Investing through the Brazilian stock market may be extremely fastidious for foreigners, whereas direct investment in currency is a much simpler process for foreigners. Therefore, Business Angels' business idea has acceptance potential. Furthermore, investing in insipient businesses which are not yet part of the local stock market may be a much more profitable option for investors that seek for fast return-on-investments.

In order to open a Business Angels Brazil branch, the client must choose a type of legal organizational structure. Two types of legal organizational structures were studied: incorporated company and limited liability company. A third option, civil partnership was also considered.

After researching the pros and cons of each company legal type, it was discovered that Brazilian legislation allows companies to operate under a conjunction of civil partnership and one of the many company legal types available according to the Brazilian Civil Code, blending features from the company type and the civil partnership.

A conjunction of civil partnership and limited liability company appeared to be to most suitable legal organizational structure for Business Angels Brazil, according to the operations the company intends to implement in Brazil. Civil partnerships require

simpler registration procedures and a “limited liability civil partnership” would benefit from such simplifications. Moreover, civil partnerships require a minimum of only two partners and allow partners to contribute to the partnership not with capital, but with their time and work. A limited liability civil partnership would benefit from all these features, satisfying the clients need, since the client intends to constitute a company with a maximum of four partners and to require from some of them only their expertise, not capital, as their contribution to the business partnership. On the other hand, by constituting a “limited liability civil partnership”, the client benefits from the most advantageous trait of limited liability companies: a limited liability regime to all partners, which means that partners are liable for the partnership’s debts only up to the limit of their quota in the partnership, protecting their personal assets against eventual affectation resulting the partnership’s debts.

In order to constitute a “limited liability civil partnership”, one has to register it at the local Trade Registry Office (Junta Comercial). The Trade Registry office will demand that all partners are CPF (cadastro de pessoa física) holders. A CPF is the Brazilian equivalent to the Finnish “socialiturvatunnus”, a document that all Brazilians over 18 and foreigners with ownerships in Brazil must possess. Foreigners can obtain their CPF from the Brazilian embassy in the country where they live.

The client, Business Angels Finland Oy, has recently brought to Finland a portal that links capital-seeking Finnish entrepreneurships and Finnish investors. The service well-received by local entrepreneurs and investors, and now the company considers expanding its operations to other countries more notably to Brazil, linking Brazilian entrepreneurships and foreign investors. By providing a simplified, less time-consuming investment procedure, Business Angels Brazil intends to captivate foreign investors who plan to invest in Brazil. This thesis showed the client a few reasons for which their business idea has success potential, as well the most suitable legal structure business Angels Brazil should adopt in order to maximize the efficiency of its business.

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8. APPENDIX

8.1 Annex 1

Identification Form - Annex to Resolution n° 2.689/00

I - NON RESIDENT INVESTOR IDENTIFICATION

1 - Investor's Name or Trade Name:

2 - Address: _____

City: _____ State or Province:

Country of legal domicile: _____ Zip Code: _____

Nationality: _____

3 - Internet Address: _____

4 - Country of Incorporation: _____

5 - Qualification:

() a - commercial banks, investment banks, savings and loan association, global custodians and similar institutions, regulated and controlled by official competent authorities;

() b - insurance companies regulated and controlled by official competent authorities;

() c - societies or entities whose purpose is to distribute issuance of securities, or acting as dealers in the negotiation of securities, on their own behalf or on behalf of third parties, registered and regulated by entities certified by the Securities and Exchange Commission of Brazil;

() d - pension funds, regulated by official competent authorities;

() e - non-profitable institutions, if they are regulated by official competent authorities;

() f - any entities whose purpose is to apply resources in the financial and capital market, with exclusive participation of individuals of legal entities resident and domiciled abroad, provided that:

() i - be registered and controlled by entities certified by the Securities and Exchange Commission of Brazil; or

() ii - the portfolio be managed, leeway, by a professional manager, registered and

regulated by an entity certified by the Securities and Exchange Commission of Brazil;

() g - other funds or collective investment entities;

() h - legal entities incorporated abroad; or;

() i- individuals residing abroad.

II - REPRESENTATIVE IDENTIFICATION

1 - REPRESENTATIVE

Name or Trade Name:

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Fax: _____

Corporate Tax registration/Individual Taxpayer Registration: _____

Legal Classification: _____ Business Activity: _____

Internet Address: _____

Responsible for Foreign Capital Registratio: () YES () NO

2 - CO-RESPONSIBLE REPRESENTATIVE – When the representative mentioned on clause I of this article is an individual or a non financial legal entity, then the investor will have to appoint an institution authorized to deal by the Brazilian Central Bank.

Name or Trade Name:

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Fax: _____

Corporate Tax registration/Individual Taxpayer Registration: _____

Legal Classification: _____ Business Activity: _____

Internet Address: _____

III – TAX CONDITIONS REGARDING INVESTMENTS IN BRAZIL

1 - Capital gains tax:

() Exempt

() Nonexempt

2 - Income assessment:

() Exempt

() Nonexempt

3 - Investor Representative on tax issues:

Name: _____

Address: _____

Corporate taxpayer registration / Individual taxpayer registration:

IV – INVESTOR STATEMENT

I declare, under the penalties provided by law, and for due purpose, that all the information given here is true and complete, and that I assume the responsibilities resulting therefrom.

_____ / ____ / ____

Signature of the Non Resident Investor Date

Signature of the Representative

Signature of the Co-Responsible

V - IDENTIFICATION CODES

BRAZILIAN SEC CODE: _____

Electronic Declaratory Registry (EDR) Number: _____

8.2 Annex 2

