



2013, a year of historical accomplishments for leasing in Brazil

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The Brazilian market of leasing was able to overcome some legal barriers in 2013 that were stopping the leasing operation. It was a year of significant developments on the regulatory field, which restored to the industry the legal certainty needed to work, making the way to the recovery of the sector.

After a long legal deadlock, the market discovered important legal decisions: one related to the Brazilian Services Tax (ISS) and another related to the Guaranteed Residual Value (VRG). The VRG corresponds to an obligation signed on the begging of the leasing contract, which is paid to the lessor corporations, together with the installments of consideration, and it can, at the end of the leasing contract, be used to exercise the option for the purchase of the asset.



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Both decisions were highly anticipated for the lessor corporations, which saw their operations fail over the last years due to the lack of legal certainty that hovered the business.

The legal deadlocks cost to the leasing industry, whose business lost the relevance regarding the Gross Domestic Product (GDP), when compared to the other modalities of financing of the Brazilian financial market.

The decision of the Superior Court of Justice (SCJ) sanctioning that the Brazilian Services Tax (ISS) incident at leasing operations must be collected in the municipality where the leasing company is headquartered restored the reliability of working the product on the market. Since 2000, the lessors and the municipality have been discussing Legally the appropriated place to collect the ISS for the operations, creating instability on the market. Therefore, the decision that put the battle regarding the ISS' taxation to an end is an historical accomplishment for the leasing market. The justice was made, prevailing the argument supported by **Abel** and its associated about the tax collection.

Another important decision to make for the sector recover the place that was lost over the last decade was the Superior Court of Justice (SCJ) understanding that the leasing companies should not restore to the customer the Guaranteed Residual Value (VRG), unless on the cases in which the difference between the sale's value of the leased asset and the value paid in the form of VRG results in positive surplus.

Among other regulatory developments, the introduction on the legal system of the institute of the “indisputable amount” stands out, based on the principles that rule the willingness and under the contracts, as provided on the legislation: “On the litigations that have the objective of obligations due to loans, financing or leasing, the representative should distinguish on the pleading, among the contractual obligations, the ones he/she intends to controvert, quantifying the indisputable amount”. The sole paragraph of this provision states that “the indisputable amount should remain being paid at the time and means agreed”.

In October 2013, the conversion of a minimal law into a law (Law 12.873), helped in the strengthening of the contractual relationships between the lessor and lessee, assigning to the lessee the responsibilities for taxes and incidental infractions about the leased assets: “The debtor or lessee is not excluded of the obligation to pay the taxes, fines and incident charges about the related assets and others charges provided in the contract, unless if the obligation to pay is not your responsibility, as established in the contract, or if it is object of suspension in preliminary injunction, caveat or advance protection.”

Once these legal battles are overdue, it is expected that the leasing industry will begin to increase in order to recover its place on the national credit market. At its peak, in 2008, the modality represented 47% of the credit operation for automobiles, but this participation was drastically decreased over the last years, exactly because of the lack of legal certainty.

On last December, the Present Portfolio Value presented a balance of R\$ 28,93 billions. The new business created added R\$ 873,85 millions.

These developments will help to unlock the leasing market on the Brazilian market. But in order to battles like this do not threaten again the proper functioning of the industry is essential that Brazil is able to make a tax reform. This reform is the definitive solution for the reinstatement of the legal security. In the meantime, the leasing sector gets ready to take back its role of access' facilitator of productive assets and to help the sustainable development of the Brazilian economy.

Present portfolio value - Top 20 lessors in 2013

POSITION	COMPANY	TOTAL(US\$m)	CONTRACTS	SHARE %
1	Banco Itaucard S/A	3.611.956.391	573.279	29,28%
2	Bradesco Leasing S/A Arrendamento Mercantil	2.229.157.116	61.665	18,07%
3	Santander Leasing S.A. Arrendamento Mercantil	1.177.486.753	143.337	9,54%
4	Banco IBM S/A	962.005.846	1.622	7,80%
5	Cia. de Arrendamento Mercantil RCI Brasil	586.319.242	86.901	4,75%
6	HP Financial Services Arrendamento Mercantil S/A	468.311.742	3.967	3,80%
7	HSBC Bank Brasil S/A Arrendamento Mercantil	410.849.325	28.536	3,33%
8	BV Leasing Arrendamento Mercantil S/A	401.279.163	85.318	3,25%
9	Safra Leasing S/A Arrendamento Mercantil	333.318.575	56.117	2,70%
10	BB Leasing S/A Arrendamento Mercantil	223.587.566	10.227	1,81%
11	SG Equipment Finance S.A. Arrendamento Mercantil	223.524.890	366	1,81%
12	Banco Commercial I.Trust do Brasil S/A	204.690.005	5.098	1,66%
13	ITAUBBA Leasing S/A	188.462.664	54.005	1,53%
14	Banco Bradesco Financiamentos S/A	161.142.211	84.902	1,31%
15	BIC Arrendamento Mercantil S/A	143.573.430	670	1,16%
16	Banco Safra S/A	143.056.188	171.661	1,16%
17	Alfa Arrendamento Mercantil S/A	127.788.616	2.423	1,04%
18	Mercedes-Benz Leasing do Brasil Arrend. Mercantil	117.922.533	4.110	0,96%
19	Banco Volkswagen S/A	115.043.139	15.252	0,93%
20	Leaseplan Arrendamento Mercantil S/A	93.581.759	5.662	0,76%
Total		11.923.057.154	1.395.118	96,65%
Total of market		12.336.437.383	1.482.329	100,00
Source: ABEL- Brazilian Association of Leasing Company				

New investments - Top 20 lessors in 2013

POSITION	COMPANY	TOTAL(US\$m)	CONTRACTS	SHARE%
1	Bradesco Leasing S/A Arrendamento Mercantil	1.044.895.233	10.926	26,07%
2	Banco Itaucard S/A	713.426.394	7.932	17,80%
3	Santander Leasing S/A Arrendamento Mercantil	469.459.812	4.334	11,71%
4	Banco IBM S/A	367.505.944	861	9,17%
5	Cia. de Arrendamento Mercantil RCI Brasil	224.437.416	20.441	5,60%
6	Banco Itauleasing S/A	207.076.071	2.356	5,17%
7	HP Financial Services Arrendamento Mercantil S/A	170.610.434	853	4,26%
8	Banco Commercial I.Trust do Brasil S/A	150.156.656	1.796	3,75%
9	HSBC Bank Brasil S/A	145.652.350	1.513	3,63%
10	SG Equipment Finance S.A. Arrendamento Mercantil	109.137.561	144	2,72%
11	BB Leasing S/A Arrendamento Mercantil	93.561.658	1.178	2,33%
12	BV Leasing Arrendamento Mercantil S/A	67.593.939	155	1,69%
13	Alfa Arrendamento Mercantil S/A	64.400.100	752	1,61%
14	BIC Arrendamento Mercantil S/A	52.079.010	180	1,30%
15	Citibank Leasing S/A Arrendamento Mercantil	36.709.567	243	0,92%
16	Banco Bradesco Financiamentos S/A	31.712.724	576	0,79%
17	Banco Volkswagen S/A	24.458.041	444	0,61%
18	Banco Toyota do Brasil S/A	23.899.703	1.173	0,60%
19	Panamericano Arrendamento Mercantil S/A	5.029.606	62	0,13%
20	ITAUBBA Arrendamento Mercantil S/A	3.424.260	31	0,09%
Total		4.005.226.477	55.950	100%
Total of the market		4.007.862.983	56.107	100,00

Source: ABEL – Brazilian Association of Leasing Company

Equipment leased 2008- 2013 US\$m						
	2008	2009	2010	2011	2012	2013
Veículos e afins	44.525	57.596	37.617	17.283	10.862	4.810
Máquinas e equipamentos	4.470	6.195	6.858	6.310	5.869	5.275
Aeronaves	255	403	540	578	660	854
Equipamentos de informática	475	1284	1.239	1.036	1.175	686
Instalações	68	88	110	89	72	51
Móveis e utensílios	77	101	110	89	67	58
Embarcações	31	46	56	58	53	61
Imóveis	47	69	270	59	84	40
Outros	140	223	239	43	45	18
Total	50.088	66.005	47.039	25.545	18.887	11.853

Source: ABEL – Brazilian Association of Leasing Company

Collectible leases per sector 2008-2013 US\$m						
	2008	2009	2010	2011	2012	2013
Pessoa Física	37.847	46.321	36.408	20.007	9.779	4.855
Serviços	7.745	9.335	9.208	6.759	5.802	5.138
Comércio	4.069	4.094	3.398	2.043	1.740	1.237
Industria	4.553	5.191	4.865	3.354	2.610	2.060
Estatais	134	92	97	97	158	76
Outros	611	945	2.042	1.237	978	490
Total	54.959	65.978	56.018	33.497	21.067	13.856

Source: ABEL – Brazilian Association of Leasing Company