
THE GOVERNMENT INCREASES THE LIMIT OF FOREIGN CAPITAL IN BRAZILIAN AIRLINE COMPANIES

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Abstract: Prompted by the crisis of the air transportation segment, the Government enacted a Provisional Measure amending the Brazilian Aeronautical Code and increasing the limit of foreign capital in Brazilian airline companies.

The Provisional Measure – MP no. 714/2016 that changes the rules set forth in the Brazilian Aeronautical Code regarding the participation of foreign capital in Brazilian airline companies, was published last week, on March 2nd, 2016, in the Official Federal Gazette – DOU.

The key innovation brought by the MP is the possibility to increase the foreign capital in Brazilian airline companies, which was previously limited to twenty percent (20%) and may now reach forty-nine percent (49%) of the voting capital.

According to the recently enacted MP, the foreign investor's participation may even surpass such limit and reach one hundred percent (100%) of the Brazilian airline's capital, as long as such provision is set forth in the Air Transport Service Agreement entered into between Brazil and the investor's country of origin.

Another change of utmost importance is related to the board composition of national airlines, given that the MP thwarts the restriction previously in force regarding the participation of foreigners in the board of directors of Brazilian airlines.

With such measures, the Brazilian Government intends to (i) lure foreign investments to a sector that currently amasses billions of Brazilian Reais of losses due to the increasing strength of the US dollar and, as a result (ii) once again ensure the growth of domestic and international routes for national companies.

According to experts of the field, these measures were long-awaited and, as a matter of fact, overdue, as the current situation faced by Brazilian airlines could've been prevented by a more timely solution.

Nevertheless, the companies that control the Brazilian market, as well as most experts of the segment and of the country's regulating bodies, welcome the changes set by the recently enacted MP.

ALMEIDA ADVOGADOS remains available to clarify any questions regarding the limitation of foreign ownership in airline companies, pursuant to Brazilian legislation, as well as to provide any needed assistance in relation to any airline-related activities and/or to invest in this economic sector in Brazil.