

SOCIAL ENTERPRISES IN BRAZIL

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1. INTRODUCTION

It is not an easy task to talk about social enterprises in Brazil – which are locally known as impact businesses (*negócios de impacto*) – because the local debate on the topic is still incipient. However, discussions on the social effects of economic activity are gaining momentum in domestic corporate, legislative and academic circles, especially due to the growing importance of the ESG (environmental, social and governance) agenda.

This early stage of development is evidenced in two ways. First, Brazil has no specific legal form covering impact businesses, a circumstance that leads to the constant use of traditional corporate forms for the incorporation of these businesses, even though they are typically associated with the exclusive pursuit of profits.

Furthermore, the Federal Decree No. 9,977, dated 19 August 2019 (2019 Decree), is the only law concerning impact business. The 2019 Decree replaced Federal Decree No. 9,244, dated 19 December 2017 (2017 Decree), which has

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almost identical content. The 2019 Decree establishes the National Strategy for Business and Impact Investing (Estratégia Nacional de Investimentos e Negócios de Impacto, ENIMPACTO), an initiative that aims at fostering businesses with a double bottom line in Brazil. Notwithstanding this goal, neither the 2019 Decree nor other legal rules provide for any special taxation, exemptions, incentives or subsidies designed to benefit impact businesses as a specific category of business. Thus, despite constant progress observed over the past few years, currently there is no comprehensive legal framework for social enterprises.

In this scenario of relative legislative scarcity, non-state actors play an important role in the development of the impact business industry in Brazil. The coordinated action of private players and state representatives has gradually intensified and grown in scale, giving rise to what has been commonly referred to as the ‘Brazilian ecosystem of impact businesses’. The term ‘ecosystem’ emphasises that coordination among different players is needed to develop an environment suitable for impact businesses.¹

Second, the very absence of an accurate definition of impact businesses – or, in fact, the existence of multiple concepts that are not always consistent – also demonstrates the lack of maturity of the subject at the national level. For example, according to the definition provided by Article 2 of the 2019 Decree, impact businesses are ‘enterprises aimed at generating a social and environmental impact and a positive financial result in a sustainable way’.² Thus, the law highlights three elements that could be regarded as determining characteristics of this type of activity, namely: (i) the objective of generating a positive social and environmental impact; (ii) the pursuit of a positive economic result; and (iii) the sustainability of these business models.

However, no matter how straightforward the concept set out in 2019 Decree seems to be, it is not free from criticism and, according to institutions that are part of the Brazilian ecosystem, at the very least it should be supplemented. For these institutions, impact businesses should not be understood as only one of the categories outlined above. They argue that the characteristics of an impact business established by the 2019 Decree could be confused with other

¹ As explained by the Brazilian Social Finance Task Force (Força Tarefa de Finanças Sociais, FTFS), ‘the Social Finance ecosystem is composed of players on the supply side (those who donate, invest or lend financial resources), players on the demand side (the Impact Businesses), financial mechanisms and intermediary organizations (responsible for connecting the players and facilitating the circulation of capital, as well as qualifying and monitoring the performance of the businesses)’. FTFS, *Finanças Sociais: Soluções Para Desafios Sociais e Ambientais – Uma nova mentalidade para gerenciar recursos e necessidades da sociedade*, São Paulo 2015, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/02/financas-sociais-solucoes.pdf>.

² The concepts provided by the 2017 and 2019 Decrees are identical.

types of conceptually close ventures, which despite having, to some extent, a positive social and environmental impact, constitute meaningfully different types of ventures, ranging from inclusive businesses or sustainable businesses to philanthropies and charities.

There are countless impressions that institutions involved in the impact business ecosystem have on this topic. Therefore, in 2019, a group of Brazilian non-state agents assessed several jurisdictions in order to gather elements to achieve a more comprehensive, accurate concept of impact business. This exercise resulted in a concept formed by four fundamental elements: (i) the intent to solve a social and/or environmental issue; (ii) the impact solution being the core activity of the business; (iii) the search for financial return by operating according to market logic; and (iv) commitment to monitoring the impact generated.³

In other words, the criteria identified by these non-state players would generate a definition that is more specific than that provided for in the 2019 Decree. But these definitions are only supplementary. As acknowledged by the non-state players that are part of the Brazilian ecosystem of impact businesses, the legislative definition, although less accurate, is important for at least two reasons. First, because it has actively sought not to restrict the concept to the point of preventing a diversity of models. Second, because it is not excessively vague, which would otherwise facilitate the use and misappropriation of the concept (i.e. greenwashing).⁴

Despite their respective merits, the conceptual differences found between the preferred definition of impact business accepted in the public and private sectors, together with the absence of specific legal regimes, demonstrate that the debate on impact businesses in Brazil is still at a very early stage.

This report aims at contributing to this discussion and describing both the Brazilian ecosystem of impact businesses and the economic and legal environments currently encountered by companies with a double bottom line in Brazil. It is divided into four sections, in addition to this introduction. [Section 2](#) will explore the origins of the Brazilian ecosystem of impact business and explain the reasons why it is so important to promote this sector in Brazil. [Section 3](#), in turn, will provide data on the economic environment encountered by entrepreneurs who seek to develop impact businesses in Brazil. [Section 4](#) will describe the legal aspects of the corporate forms most commonly used to set up impact businesses in Brazil. Finally, [section 5](#) will summarise the conclusions of this report.

³ Alliance, *O que são Negócios de Impacto: Características que definem empreendimentos como negócios de impacto*, São Paulo 2019, p. 29, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/03/ice-estudo-negocios-de-impacto-2019-web.pdf>.

⁴ Ibid., p. 21.

2. THE BRAZILIAN ECOSYSTEM OF IMPACT BUSINESSES

The Brazilian ecosystem of impact businesses is made up of the coordination of institutions of different natures and from different sectors. The origins of a formal network to support impact businesses dates back to 2014, when the Brazilian Social Finance Task Force (Força Tarefa de Finanças Sociais, FTFS) was created. In 2017, the FTFS was transformed into the Brazilian Alliance for Impact Investment and Impact Businesses (Aliança pelos Investimentos e Negócios de Impacto, Alliance). The FTFS drew inspiration from similar initiatives that were emerging at that time in other countries (especially in the United Kingdom) and was created via the joint efforts and mobilisation of a multidisciplinary working group formed by dozens of organisations and players with varied backgrounds with the objective of driving innovative, decentralised solutions aimed at leveraging the domestic industry of impact businesses.

During the FTFS formation process, the roles of the Getulio Vargas Foundation's São Paulo School of Business Administration (Escola de Administração de Empresas de São Paulo da Fundação Getulio Vargas, FGV-EAESP), a traditional Brazilian higher education institution and think tank, and the Corporate Citizenship Institute (Instituto de Cidadania Empresarial, ICE), an entity dedicated to promoting positive social impact, were particularly important. These organisations coordinated the task force until it was capable of performing its roles independently. The ICE acted as the executive board of the FTFS and continues to hold this position even after the task force's conversion into the Alliance.

The studies and discussions undertaken by FTFS resulted in a list of 15 recommendations for the period between 2015 and 2020. These recommendations made up an agenda that sought to advance capital formation, as well as entrepreneurship and innovation, with the objective of solving complex social and environmental issues, combined with the possibility of generating a financial return for impact entrepreneurs and investors.⁵

This engagement of organised civil society produced initial results in 2016 when the FTFS entered into partnerships with governmental agencies, allowing a joint discussion of public policies and projects at municipal, state and federal levels.⁶ This joint effort by state agents, with non-state actors taking a leadership role, gave rise to the enactment of the 2017 Decree. Since its initial

⁵ FTFS, *Finanças Sociais: Soluções Para Desafios Sociais e Ambientais – Uma nova mentalidade para gerenciar recursos e necessidades da sociedade*, São Paulo 2015, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/02/financas-sociais-solucoes.pdf>.

⁶ It is worth mentioning, in particular, the execution of a Technical Cooperation Agreement with the former Ministry of Industry, Foreign Trade and Services, which is currently integrated into the Ministry of Economy. The agreement gave rise to a closer relationship between representatives of the Brazilian state and impact businesses.

version, the Decree has introduced two initiatives to the Brazilian public policy framework, both seeking to strengthen cooperation between the public and private sectors to promote impact businesses in Brazil.

The first of these innovations was the creation of ENIMPACTO, which is organised into five strategic axes, four vertical (i–iv) and one transversal (v), namely: (i) expansion of capital offering for impact businesses; (ii) increase in the number of impact businesses; (iii) strengthening of intermediary organisations, such as ‘accelerators’ and ‘incubators’; (iv) establishment of an institutional and regulatory environment favourable to impact businesses; and (v) strengthening the generation of data on these companies.⁷

In practice, ENIMPACTO is executed through another innovation introduced by the 2017 Decree: the creation of the Committee for Impact Investments and Businesses (Comitê de Investimentos e Negócios de Impacto). Although the Committee is not considered to be a public regulator for impact businesses – no such entity currently exists in Brazil – it is responsible for proposing, monitoring, assessing and articulating the implementation of ENIMPACTO. The Committee’s structure reflects the intention to gather representatives from the public and private sectors in a single body formed by a group of 26 members, 10 of which from the impact business industry, and the others appointed by various ministries, agencies and other government authorities. The plenary of the Committee, which comprises all 26 members, assemble every three months or whenever necessary.

The Committee has currently four working groups, which comprise not only members of the Committee but also other guest institutions, such as banks, asset managers and law firms. Each working group focuses on one of ENIMPACTO’s four vertical axes. Therefore, the activities of the Committee occur mainly through the working groups. In 2021, for example, the working group responsible for fostering the number of impact businesses in Brazil offered training courses to entrepreneurs, together with private partners, some of them free of charge. In addition, the working group responsible for expansion of capital concluded a partnership with the National Bank for Economic and Social Development (Banco Nacional de Desenvolvimento Econômico e Social, BNDES), through which BNDES has committed to invest up to R\$200 million (US\$35.8 million)⁸ in three private equity funds targeting impact businesses (as defined by the 2019 Decree).⁹

⁷ A detailed explanation of ENIMPACTO’s activities may be found in its ‘base text’ available at https://www.gov.br/produtividade-e-comercio-exterior/pt-br/images/Nationala_Strategya_fora_Businessa_anda_Impacta_Investinga_a_finala_versiona_posta_publica_consultationa_28.02.pdf.

⁸ Unless otherwise stated, amounts in Brazilian reais (R\$) were converted into US dollars (US\$) using the exchange rate as of 31 December 2021, as provided by the Brazilian Central Bank (Banco Central do Brasil).

⁹ ENIMPACTO, *Relatório anual de atividades do Comitê de Investimentos e Negócios de Impacto*, 2021, pp. 7–10, <https://www.gov.br/produtividade-e-comercio-exterior/pt-br/assuntos/inovacao/enimpacto/RelatorioAnualdeAtividades202115.12.2021.pdf>.

Before turning to the next section, it is important to highlight that the Alliance recently launched a new set of nine recommendations for the 2020–2025 cycle. These nine proposals address dissemination, training and boosting of impact businesses, opening up more sources of financing, communication, innovation and compatibility between the social vulnerability and the climate and environmental crisis agendas.¹⁰

3. MAPPING IMPACT BUSINESSES

Intermediary organisations, such as start-up incubators and accelerators or university labs, have been gathering data regarding Brazilian impact businesses. One of the most significant entities in this context is Pipe.Social (Pipe), a private institution founded in 2016 for the purpose of mapping businesses aligned with the 17 United Nations Sustainable Development Goals (UN SDGs) and connecting impact entrepreneurs with potential investors. Pipe has an extensive database that allows for comprehensively mapping the ecosystem and further enables drafting periodic publications, the ‘Impact Businesses Maps’ (*Mapas dos Negócios de Impacto*, hereinafter ‘Maps’), with the institutional support of ENIMPACTO and the Alliance, among other collaborators.

Another organisation actively engaged in mapping the ecosystem is the Group of Institutes, Foundations and Enterprises (Grupo de Institutos, Fundações e Empresas, GIFE), a non-profit organisation formed by foundations and institutes engaged in social investments. Since 2001, GIFE has published a biennial study on the Brazilian social investment environment, called the GIFE Census. The Census focuses on investors willing to make social investments. Together, the data collected by Pipe and GIFE identify and provide the context of the businesses, entrepreneurs, investors and other players in this ecosystem, allowing for relatively comprehensive analysis of impact businesses in Brazil.

3.1. THE BUSINESSES AND THEIR ACTIVITIES

The Brazilian sector of impact businesses stands out as one of the three largest in Latin America, alongside Colombia and Mexico.¹¹ However, estimates on the total number of impact businesses in Brazil vary. For example, while Pipe, in

¹⁰ According to Alliance, *Visões de Futuro para a Agenda de Impacto no Brasil – Recomendações para o avanço dos investimentos e negócios de impacto até 2025*, São Paulo 2021, <https://aliancapeloimpacto.org.br/wp-content/uploads/2021/03/alianca-interativo.pdf>.

¹¹ ANDE, *Investimentos de Impacto na América Latina – Tendências 2018 & 2019*, 2020, p. 5, <https://www.gov.br/produtividade-e-comercio-externo/pt-br/assuntos/inovacao/enimacto/RelatorioANDE2020.pdf>.

a Map published in 2017, accounted for 579 impact businesses, another study conducted in the same year by the United Nations Development Programme (UNDP) in partnership with the Brazilian Micro and Small Business Support Service (Serviço Brasileiro de Apoio às Micro e Pequenas Empresas, Sebrae) identified 857 businesses aiming at generating positive social impact through their core activities.¹²

Despite these divergences, there is a consensus that the number of impact businesses has grown substantially in recent years, showing an upward trend. For example, the latest Pipe Map – published in 2021 – reports that the total number of impact businesses more than doubled in the period since the publication began: from 579 in 2017 to 1,272 in 2021.¹³ Although the majority (71%) of impact businesses are duly registered and organised, the bureaucracy for making these businesses formal is an issue faced by most impact entrepreneurs in the early stages of their journeys and many remain part of the informal economy.¹⁴

In addition, according to the 2021 Map, domestic impact businesses are primarily distributed among the areas of green technologies, citizenship, education, health, cities and financial services, and companies usually operate concurrently in two or more of these fields.¹⁵ More precisely, the fields of green or sustainable technologies (green tech) and the civic agenda (civic tech) related to issues of social inclusion, diversity, gender and the rights and duties of citizens comprise respectively 49% and 40% of the fields of business activity.¹⁶ The industries of education (ed tech) and health (health tech) come next, corresponding to 28% and 27% of the fields of activity.¹⁷ In general, Brazilian impact businesses have been experiencing greater diversification in their fields of activity over time.

The methodology adopted by Pipe also assesses the activities of impact businesses in accordance with the 17 SDGs. From that perspective, the primary segments of impact businesses are those of responsible consumption and production (39%); good health and well-being (36%); and decent work and economic growth (35%).¹⁸ Some of the industries with the lowest share are clean water and sanitation (8%); peace, justice and strong institutions (6%); and affordable and clean energy (6%).¹⁹

¹² PNUD/Sebrae, *Retrato dos Pequenos Negócios Inclusivos e de Impacto no Brasil*, Brasília 2017, p. 7, https://www.sebrae.com.br/Sebrae/Portal%20Sebrae/Anexos/3._mapeamento_negocios_de_impacto.pdf.

¹³ Pipe, *Mapa de Negócios de Impacto Socioambiental*, 2021, pp. 1 and 26, https://mapa2021.pipelabo.com/downloads/3_Mapa_de_Impacto_Relatorio_Nacional.pdf.

¹⁴ Ibid., p. 6.

¹⁵ Ibid., p. 18.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

Impact businesses operating for up to five years account for 64% of the sample, with 34% operating for less than two years.²⁰ However, there are cases of companies that have been operating for longer periods in the market, such as Mãe Terra, a natural and organic products company that has been operating in the market since 1979 and is considered the longest-running impact business in Brazil.²¹ Another exception is Natura, a cosmetics manufacturer listed on the local stock exchange and which, in terms of both number of employees and revenue, is considered to be the largest impact business in Brazil – and one of the largest in the world.²²

Regarding geographic location, the 2021 Map reveals that impact businesses are primarily located in Brazil's south-eastern region, which is home to 58% of them, and 40% of all Brazilian impact businesses are located in the State of São Paulo, Brazil's most populous state.²³ The north-eastern region accounts for 16%, closely followed by the southern region, with 15%. In turn, the northern and central/western regions each account for 5% of the total.²⁴

3.2. ENTREPRENEUR PROFILE

The social and demographic profiles of Brazilian impact entrepreneurs is varied, but some general trends may be highlighted. According to the 2021 Map, most impact businesses are formed by small teams and were founded approximately over the last five years.²⁵ More than half of them (55%) have between two and five members, 14% have only one entrepreneur, and 27% have six or more members.²⁶ 69% use freelance teams providing specific services.²⁷

Women are present in 67% of businesses.²⁸ However, despite the apparent gender equality, there are more businesses run exclusively by men (27%) than exclusively by women (23%).²⁹ In addition, the Pipe survey shows that more gender-equitable businesses face greater difficulties in accessing financing and other forms of support. Maintaining gender equality levels is even more challenging in advanced stages of development of Brazilian impact businesses.³⁰

²⁰ Ibid., p. 6.

²¹ <https://www.maeterra.com.br/sobre-mae-terra.html>.

²² <https://www.sistemab.org/empresasb/natura/>.

²³ Pipe, *Mapa de Negócios de Impacto Socioambiental*, 2021, p. 6, https://mapa2021.pipelabo.com/downloads/3_MapadeImpacto_Relatorio_Nacional.pdf.

²⁴ Ibid.

²⁵ Ibid., pp. 3 and 6.

²⁶ Ibid., p. 3.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

The social and demographic imbalance is not restricted to gender aspects: it also affects racial issues. The leadership or management of the impact businesses surveyed is predominantly comprised of white people (66%), while Black, Asian and Indigenous people, together, account for 12% of entrepreneurs (9%, 2% and 1%, respectively).³¹ Although there are regional variations, the overall proportions remain relatively close.

Data on the age and the level of education of entrepreneurs also reveal the predominance of certain attributes: 49% of businesses are formed by entrepreneurs between 30 and 44 years of age, 22% by people from 18 to 29 years of age, and 17% by people from 45 to 54 years of age.³² Most entrepreneurs (53%) hold a postgraduate degree (i.e. they have a master's, doctorate or post-doctorate degree), and 25% hold a graduate degree. 50% of entrepreneurs who hold graduate or postgraduate degrees have majors in the fields of management, economics, accounting and/or computer science, engineering, physics or chemistry.³³

3.3. INVESTOR DATA

The 10th issue of the GIFE Census, with data from 2020 – published in 2021 – gathered data from 131 corporate, family and independent or community associations, foundations or philanthropic funds operating in Brazil, which points to a growing trend in the number of organisations engaged in providing capital to social and impact investments.³⁴ By comparison, GIFE's first Census, published in 2001, included only 48 participating organisations.³⁵

Total social investments made by organisations participating in the 2020 Census amounted to approximately R\$5.3 billion (US\$950 million) in 2020.³⁶ This figure is considerably higher than in previous years, particularly due to

³¹ Ibid., p. 4.

³² Ibid.

³³ Ibid.

³⁴ GIFE, *Censo GIFE 2020*, São Paulo 2021, p. 7, <https://sinapse.gife.org.br/download/censo-gife-2020>.

³⁵ Ibid., p. 9.

³⁶ As explained by GIFE, the Census gathers data from 'corporate, family, and independent or community associations, foundations, or philanthropic funds operating in Brazil. GIFE conducts this biannual census with its members to better understand their characteristics and social investment priorities. This overview presents the main results obtained from 131 organizations (81% of GIFE's 161 members at the time of the survey) that responded to questions regarding their activities and structure in 2020. All census data, unless explicitly stated, refer to 2020 and are based on the 131 responses. The amounts are presented in Brazilian reais (R\$) and were adjusted for inflation to December 2020 values using the Brazilian index IPCA.' GIFE, *2020 GIFE Census Key Facts*, São Paulo 2020, p. 1, <https://sinapse.gife.org.br/download/key-facts-censo-gife-2020>.

contributions to initiatives aimed at dealing with the effects of the COVID-19 pandemic.³⁷

Among the 131 organisations mapped in the 2021 Census, 11% are companies engaged in impact business; approximately 35% are family or independent foundations, institutes and philanthropic funds; and more than half (54%) are business philanthropic organisations (organisations engaged in investing in impact business).³⁸ Most of these organisations use the UN SDGs as a reference to guide their agendas and actions, in particular SDGs 4 (quality education) and 10 (reduced inequalities).³⁹

Although team sizes vary considerably depending on the type of organisation, organisations participating in the Census employ approximately 100 people.⁴⁰ All together, organisations participating in the study employ more than 13,000 people.⁴¹

The 2021 Census also shows that there are discrepancies concerning the number of men and women in management and on the boards of directors of participating organisations. The study shows that 67% of all directors are men, while 32% are women.⁴² However, the study shows a growing trend towards balance in recent years, with a gradual reduction in the number of men and a simultaneous increase in the number of women.⁴³ On the other hand, in racial terms, the proportion of members and the trend of imbalance is significantly more serious, since 58% of the entities surveyed are formed exclusively of white people, and 32% are formed by Black, Asian and Indigenous people, but still with a predominance of white people.⁴⁴

Regarding the regions in which the organisations participating in the Census focus their attention, impact businesses and the ecosystem in general substantially focus on initiatives in the south-eastern region. Of the total number of initiatives, 73% are located there, and 38% of those are specifically located in the State of São Paulo.⁴⁵

In addition to the investors targeting impact businesses, there is growing interest from other types of organisations, such as private equity and venture capital funds in these types of businesses. According to a survey on impact investment in Latin America published in 2020 by Aspen Network of Development Entrepreneurs (ANDE), 47% of investors that answered the

³⁷ Ibid., pp. 28 and 29.

³⁸ Ibid., p. 4.

³⁹ Ibid., pp. 102 and 104.

⁴⁰ Ibid., p. 161.

⁴¹ Ibid.

⁴² Ibid., p. 151.

⁴³ Ibid., p. 150.

⁴⁴ Ibid., p. 152.

⁴⁵ Ibid., p. 100.

survey,⁴⁶ corresponding to 63% of assets under management (AUM), are fund managers with for-profit purposes, followed by managers of non-profit funds, with 17% of participants and 8% of AUM. Commercial banks and other financial institutions hold the most significant positions after private equity and venture capital funds, with 14% of the surveyed AUM.⁴⁷

3.4. FINANCING ALTERNATIVES

Access to credit under favourable conditions and public fundraising through financial and capital markets could improve the development of impact businesses. However, as mentioned, there are no subsidies, tax benefits or even special tax rules in Brazil specifically designed for impact businesses, entrepreneurs or investors. There are also no special regimes for raising funds from banks or the capital markets. For this reason, impact businesses must be active in a field that is covered by other public policies to take advantage of special mechanisms, such as those aimed at promoting culture, science and technology, and sports.⁴⁸

Perhaps for these reasons, among impact entrepreneurs there is a strong preference or need for non-reimbursable funds; 67% of them fund their businesses mainly through this type of funding.⁴⁹ Concerning new investment rounds, the 2021 Pipe Map reported that 69% of Brazilian impact businesses were seeking donations as the primary modality of funding, followed by loans (26%), equity transactions (19%) and debt convertible into equity (9%).⁵⁰

Fundraising methods also vary according to the level of development of a certain impact business. Approximately 80% of businesses in the pre-operational

⁴⁶ ANDE has gathered data from 83 investors headquartered in 18 different countries and with more than US\$3.7 billion of assets under management targeting Latin American businesses. The survey does not include investments made by national or international development financial institutions.

⁴⁷ ANDE, *Investimentos de Impacto na América Latina Tendências 2018 & 2019, 2020*, p. 9, <https://www.gov.br/produtividade-e-comercio-externo/pt-br/assuntos/inovacao/enimpecto/RelatorioANDE2020.pdf>.

⁴⁸ Depending on their field of activity, businesses may have access to the National Culture Support Programme. The programme is made up of the National Culture Fund and the Cultural and Artistic Investment Funds. Pursuant to Law No. 8,313 of 1991, resources of these Funds are used to finance cultural projects. Furthermore, resources from the National Scientific and Technological Development Fund may also be used to finance innovative companies through investment funds authorised by the Securities and Exchange Commission of Brazil (CVM) (Article 12, paragraph 1 Law No. 11,540 of 2007). Additionally, there are deductions for investors, supporters, donors and sponsors of sports and parasports projects (Law No. 11,438 of 2006), production of independent Brazilian audiovisual works (Law No. 8,685 of 1993) and of cultural projects (Article 26 Law No. 8,313 of 1991).

⁴⁹ Pipe, *Mapa de Negócios de Impacto Socioambiental, 2021*, pp. 8 and 9, https://mapa2021.pipelabo.com/downloads/3_MapadeImpacto_RelatorioNacional.pdf.

⁵⁰ Ibid.

stage did not have access, or never even sought access, to any form of donation or investment, despite 47% of them having declared that they needed funds.⁵¹ Among businesses at the early stage, 76% have received donations – and from those, 72% raised funds of up to R\$500,000 (US\$90,000).⁵² Businesses at intermediate stages of development, but with high growth rates, have more diversified financing methods: 32% of them have raised funds through equity, and 35% through loans.⁵³ In order to expand their business faster, 58% of entrepreneurs at this level of development seek funds in amounts between R\$500,000 (US\$90,000) and R\$2,000,000 (US\$360,000).⁵⁴ In turn, 31% of the more mature projects, even at more advanced stages of development, have obtained funds through equity, and 33% through loans.⁵⁵ The demand for financial resources becomes even greater at this stage, with 76% of businesses seeking capital and 39% of those in amounts in excess of R\$1,000,000 (US\$180,000).⁵⁶

Non-institutional or informal sources, such as so-called ‘FFF’ (friends, family and fools) investments, are the primary sources of financing sought by Brazilian impact businesses, available to 38% of them, followed by⁵⁷ institutes and foundations (28%), incubators or accelerators (21%), state agents, such as governments and public banks (17%), crowdfunding projects (12%), private commercial banks (12%), and private equity and venture capital funds (less than 5% each).⁵⁸

In addition to the private sector, the Brazilian public sector is also a major potential investor. For this reason, promotion mechanisms and specific instruments have been developed to meet both the public demand for impact goods and services and the demand of impact businesses for financial resources. Public development banks have been active in the industry, even as parties to the ENIMPACTO, with BNDES being the main example, as previously mentioned.

Therefore, the impact investment market is still incipient in Brazil, although it is possible to find some initiatives that bring together impact entrepreneurs and investors (both private and public). Whether by means of donations, traditional investment schemes or more creative and complex methods, such as fundraising pursuant to collective investment agreements (crowd and equity funding), convertible bonds, or mutual and equity modalities

⁵¹ Ibid., p. 10.

⁵² Ibid., p. 11.

⁵³ Ibid., p. 12.

⁵⁴ Ibid.

⁵⁵ Ibid., p. 13.

⁵⁶ Ibid.

⁵⁷ Ibid., p. 8.

⁵⁸ Ibid.

conceived locally or inspired by foreign experience, investment in impact businesses is gradually growing.⁵⁹

4. LEGAL OVERVIEW OF IMPACT BUSINESSES

In view of the current lack of specific legal forms in Brazil aimed at the incorporation of impact businesses, those ventures must necessarily be organised pursuant to legal types that already exist in the Brazilian legal system.

The most common corporate types among impact businesses are corporations (*sociedades anônimas*, SAs) and limited liability companies (*sociedades limitadas*, LTDAs), which are also the most common types among non-impact business. These corporate forms are governed respectively by the Brazilian Corporate Law (Law No. 6,404, dated 15 December 1976) and the Brazilian Civil Code (Law No. 10,406, dated 10 January 1976). Despite being commonly associated with commercial companies that exclusively pursue profits, neither legal form prevents or restricts the possibility of impact entrepreneurs also pursuing their social missions through them. In other words, both forms accept the concept of a double-bottom-line enterprise.

There is, therefore, relative legal flexibility that makes it possible to accommodate, in traditional corporate types, the structure of an impact business and the existence of a greater diversity of interests, both of shareholders and stakeholders. However, this means that there is no formal distinction between purely commercial companies, on the one hand, and impact businesses, on the other hand, and there is no legal protection aimed at maintaining the social mission for which the business was created. Nor are there state agents specifically responsible for enforcing such a mission. Although guarantees can be provided for in the company's articles of incorporation, the latter in general may be amended by the vote of shareholders.

In Brazil, enterprises seeking to create positive social and environmental impact may also use non-profit corporate forms: the most significant ones are foundations (*fundações*) and associations (*associações*), both regulated by the Brazilian Civil Code. However, unlike the corporate forms mentioned above (SAs and LTDAs), foundations and associations only allow for the conduct of economic or profitable activities on a secondary basis, since the proceeds earned must be used to maintain their core activity, and profit distribution is not allowed pursuant to the law. Therefore, it is not possible to use them to structure a double-bottom-line business.

⁵⁹ According to Alliance, *Como as instituições financeiras locais e internacionais estão se posicionando no tema de investimento de impacto*, São Paulo 2017, p. 35, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/02/paper-produtos-financeiros-ice-itaun-portugues.pdf>.

Finally, so-called cooperatives (*cooperativas*), also governed by the Brazilian Civil Code and by Federal Law no. 5,764, dated 16 December 1971, must be mentioned, despite the fact that this type of legal entity is not common in the Brazilian context.⁶⁰ The cooperative is listed by the Alliance as one of the possible corporate types that may be used to organise an impact business due to its intermediary nature between for-profit and non-profit purposes, as compared to other types mentioned above.⁶¹

However, in practice, impact businesses in Brazil are usually incorporated as an SA or LTDA. For the conduct of non-profit activities, the preferred legal types are foundations and associations. Cooperatives, despite being a legally viable alternative, are rarely used. The paragraphs below describe some of the rules applicable to these legal types.

4.1. THE CURRENT LEGAL SCENARIO

Some rules apply uniformly to the five models of legal entities mentioned above (SAs, LTDAs, cooperatives, associations and foundations). Whether or not they are for-profit, all these types of legal entities in Brazil must be formalised by filing with the public registries. Depending on the legal type and purpose of the entity, these filings are made with the Commercial Registries (*Juntas Comerciais*) or the Legal Entity Notary Public Offices (*Cartórios de Registro de Pessoas Jurídicas*). As a rule, the filing does not require government authorisation. The law provides only for formal requirements that need to be observed at the time of filing. Public filing makes the filed documents available to the public, although it is not always easy to access them. Requests must be made to the public registry with which the company was filed and it is not always easy to identify the correct office. In addition, in many cases, in order to obtain copies of such documents, one must pay notary fees and emoluments.

Specifically for LTDA, SA and cooperative businesses, companies considered to be 'large enterprises'⁶² are required to prepare and disclose periodic financial

⁶⁰ According to data from the Ministry of Economy, cooperatives account for approximately 0.18% of the total number of 'active companies' in Brazil. See Ministério da Economia, *Mapa de Empresas – Boletim do 2º quadrimestre de 2021*, Brasília 2021, p. 9, <https://www.gov.br/governodigital/pt-br/mapa-de-empresas/boletins/mapa-de-empresas-boletim-do-2o-quadrimestre-de-2021-1.pdf>.

⁶¹ According to Alliance, *Carta de Princípios para Negócios de Impacto no Brasil*, São Paulo 2015, p. 10, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/02/carta-principios.pdf>.

⁶² Large enterprises are defined by Article 3 Law No. 11,638 of 2007. Currently, a large enterprise is considered to be a company or group of companies under common control that in the previous fiscal year had total assets in excess of R\$240,000,000, or annual gross revenue in excess of R\$300,000,000.

statements reviewed by independent auditors.⁶³ In addition, publicly traded SAs are subject to a typical capital market regime and the principle of full disclosure, which includes, for instance, disclosure of material facts and information on governance and business, as defined by law and the rules issued by the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários, CVM).⁶⁴ There are only a few examples of impact businesses classified as large enterprises or that are SAs with appropriate qualifications, size and organisation to face the initial public offering (IPO) process – Natura being one of them. Therefore, the vast majority of impact businesses organised as LTDAs, SAs or cooperatives do not publicly disclose information other than in their articles of incorporation and some corporate acts.

Associations and foundations, on the other hand, have specific accounting obligations and must draft reports aimed at providing accounting details especially for tax purposes. In the case of foundations, these reports – which are not publicly available – must be submitted to the State Prosecutors' Office (Ministério Público Estadual) of the state in which they are headquartered.

Legal entities must define their corporate purpose in their articles of association or bylaws, as the case may be. In the case of SAs, LTDAs and cooperatives, their corporate purposes must be lawful and possible, and not in violation of the law, public policy or good customs.⁶⁵ Associations must identify their non-profit purposes and use the proceeds obtained from for-profit secondary activities to attain their not-for-profit purpose.⁶⁶ Foundations are not allowed to perform for-profit activities or to share profits, and must identify in their corporate purposes one or more of the activities listed in the exhaustive list set out in the subparagraphs of Article 62 of the Civil Code, which include social assistance, culture or the defence and conservation of historical and artistic heritage, education, and health, among others.

The Brazilian tax system is complex, onerous and full of exceptions. Having said that, as a general rule, the tax regime for for-profit businesses, such as SAs and LTDAs, depends on their revenue. Thus, depending upon the specific revenue range within which a legal entity falls, different regimes apply based on taxable income or presumptive income, regardless of the corporate type adopted.⁶⁷ Shareholders or members are usually remunerated by profit distribution or dividends. There is no direct taxation of the distribution of profits or dividends in Brazil, although from time to time the Brazilian Congress starts discussions regarding imposing taxation on them.

⁶³ Article 3 Law No. 11,638 of 2007.

⁶⁴ Articles 157, 175 and 176 Law No. 6,404 of 1976, and CVM Resolution No. 44 of 2021.

⁶⁵ Articles 981, 982 and 983, combined with Articles 104 and 122 Civil Code.

⁶⁶ Article 53 Civil Code, which provides for associations organised pursuant to the Brazilian system, expressly imposes that requirement.

⁶⁷ Except for cooperatives that may not adhere to the *simples nacional* (national simple regime) system, as prohibited by Article 3 Supplementary Law No. 123 of 2006.

As provided by the Brazilian Constitution, all educational, health and social assistance non-profit organisations, whether incorporated as foundations, associations or other legal forms, have tax immunity regarding property, income and services if they comply with certain requirements established by law, such as applying all their resources to the maintenance and development of their social purposes.⁶⁸

Scientific, charitable, cultural and recreational non-profit organisations are also exempt from income tax and social contributions on net profits if they comply with the same legal requirements – however, this special tax treatment is not assured by the Brazilian Constitution, but by federal law.⁶⁹

Non-profit organisations may be exempted from other state taxes depending on the locale of their incorporation. In addition, non-profit organisations may receive certifications that provide some tax benefits to them.⁷⁰

Governance requirements vary depending on the type and size of legal entity. In addition, some governance options are available at the election of a shareholders' meeting or upon the resolution of shareholders, members, associates and others.

Limited liability companies (LTDA), corporations (SAs) and cooperatives must be managed by one or more executives in charge of the corporation's day-to-day activities. They can also have a board of directors (*conselho de administração*), a body responsible, among other duties, for establishing the general strategy of the business and for monitoring officers; or a fiscal council (*conselho fiscal*), which supervises directors and officers, as well as giving opinions regarding the compliance of the entity's financial statements with accountability rules.⁷¹ These bodies will not always exist in a corporation (SA), limited liability company (LTDA) or cooperative, but if they do, their existence and method of operation must be provided for in the articles of incorporation or bylaws of the legal entity.⁷² In addition, SAs, LTDAs and cooperatives also

⁶⁸ Article 150, VI, c Brazilian Constitution; Article 12 Law No. 9,532 of 1997.

⁶⁹ Article 15 Law No. 9,532 of 1997.

⁷⁰ There are currently three main certifications, all of them provided by the Brazilian federal government: (i) OSCIP – Public Interest Civil Society Organisations (*Organizações da Sociedade Civil de Interesse Público*); (ii) CEBAS – Certification of Charitable Entities for Social Assistance (*Certificação de Entidades Benéficas de Assistência Social*); and (iii) UPF – Title of Federal Public Utility (*Título de Utilidade Pública Federal*).

⁷¹ For corporations (SAs), a board of directors is mandatory for publicly traded and authorised capital companies (Article 138, paragraph 2 Law No. 6,404 of 1976). Corporations (SAs) must have a fiscal council, which, however, may or may not be a permanent one (Article 161 Law No. 6,404). For cooperatives, the law provides an alternative regime between a board of executive officers or a board of directors, and the associates will decide at a meeting in favour of one or the other, and will also elect the members of that body. However, there is also the possibility of having more than one management body (Article 47, introductory paragraph, and paragraph 1 Law No. 5,764 of 1971).

⁷² For associations, the management method and approval of the respective accounting must be provided in bylaws, under penalty of being considered null (Article 53 Civil Code).

have a shareholders' general meeting that needs to assemble at least once every year – this body is in charge, among other responsibilities, of voting on the entity's financial statements and electing the members of the board of directors, if one exists, or indicating the officers directly when the entity does not have a board.

Associations follow a similar governance regime, having officers, an optional board of directors and fiscal council, and the associates' general meeting as a superior body. In turn, foundations are governed by the bodies established in their articles of association as defined by their respective founders, usually an executive board and a trustee board.

Except for foundations, there is the possibility of converting one legal entity model into another, regardless of its purpose. That is to say, the conversion from a type with for-profit purposes to one without such purposes and vice versa is allowed⁷³ – even though some debates remain unsettled in courts, particularly concerning the tax effects of such transformation, as the law establishes that non-profit organisations when terminated must ensure the transfer of their assets to a public body or to another institution with similar purposes to enjoy tax immunity, in the event of incorporation, merger, spin-off or termination of its activities.⁷⁴ Whatever the case, the decision on conversion into a different corporate form will be made at the legal entity's associates'/shareholders' general meeting.⁷⁵

Limited liability companies (LTDAAs) are entitled to decide on the establishment of management bodies, but their existence must be defined upon agreement between the shareholders (Article 1,053 for the board of directors, and Article 1,066 for the fiscal council, both of the Civil Code). For corporations (SAs), the same applies, except that they must legally have at least one office (Article 138, introductory paragraph Law No. 6,404 of 1976). In the case of foundations, the management method is elected at the discretion of the founders, who must include it in the respective public deed or instrument of incorporation of the foundation (Article 62 Civil Code).

⁷³ That possibility is provided for in Normative Instruction No. 81 of 2020, issued by the National Department of Business Registries and Integration. Chapter V, Title III of the Instruction governs the possibility of transforming associations and simple businesses into businesses and vice versa. Any amendments to the organisational documents of legal entities, including those that involve amendments to the articles of association, will be subject to the consent of all shareholders (Articles 997 and 999 Civil Code) and will be governed by the provisions of the Code (Article 2,033 Civil Code).

⁷⁴ Article 12, §2º, g Law No. 9,532 of 1997.

⁷⁵ In the case of corporations (SAs) shareholders' meetings have the exclusive duty to resolve on the transformation of the company (Article 122, subparagraph VIII Law No. 6,404 of 1976), and for businesses in general there is no provision regarding the participation of any group other than the shareholders in determining corporate issues (Article 1,114 Civil Code). Shareholders, members or associates of the company to be transformed must resolve and decide by themselves, without the interference of third parties, on the transformation (Article 63 et seq. Normative Instruction DREI No. 81 of 2020). Furthermore, there is no need for government authorisation regarding acts of transformation. For those, there is only the requirement to comply with the legal filing requirements (Articles 58 and 67 Normative Instruction DREI No. 81 of 2020).

In order to enable a comparison between the legal types (SAs, LTDAs, cooperatives, associations and foundations), the Appendix to this report provides a summary of their main similarities and differences.

Finally, considering the fact that there is no specific legal form covering impact businesses in Brazil, a private organisation named the Brazilian B System (*Sistema B do Brasil*) has carried out a certification processes to recognise impact business.⁷⁶ To receive B Corp certification, impact businesses must, among other requirements: (i) operate in a competitive market; (ii) be exposed to the common risks of any business activity; and (iii) include in their articles of incorporation two fundamental clauses, the first regarding corporate purpose, by which the company acknowledges its commitment to considering not only the short-term and long-term interests of the shareholders, but also the short-term and long-term economic, social, environmental and legal effects of the business's activities on employees, suppliers, consumers, creditors and the local and global community in which its operations are carried out; and the second clause concerning the duty of officers and directors to consider all of those interests when exercising their functions.

Given the certification's purpose to recognise businesses committed to having a positive impact on society and the environment, non-profit organisations, including foundations and associations, cannot apply for B Corp certification.

4.2. FUTURE PROSPECTS

There are currently two main initiatives that may change the Brazilian legal framework regarding impact businesses, both with the similar purpose of creating so-called 'benefits businesses' (*sociedades ou empresas de benefícios*, SBs). The SB was conceived to be a qualification aiming at identifying impact businesses based on purpose, accountability and transparency regarding the social mission and generation of positive social and environmental impact. This qualification would be available to businesses organised as one of the existing for-profit legal types. Therefore, corporate types such as LTDAs, SAs cooperatives and so-called single-person limited liability companies (*sociedades limitadas unipessoais*) would incorporate that qualification in order to stand out among regular ventures that are by their nature especially dedicated to having a positive social and environmental impact.

The first initiative is the draft bill prepared by the Brazilian B System and promoted through ENIMPACTO, which is currently being evaluated by the Ministry of Economy. Recently, however, the draft bill received a negative

⁷⁶ The Brazilian B System website is available at: <https://www.sistemabbrasil.org>.

opinion from the Economic Policy Secretariat, a body of the Ministry of Economy, for allegedly promoting unnecessary state intervention in the private sphere and contradicting the government's deregulation guideline.⁷⁷ In spite of the efforts of ENIMPACTO's working group in charge of promoting a legal framework suitable for impact business to reverse that negative opinion, there is still no forecast regarding when or if the draft bill will be referred for consideration to other ministries or to the legislative branch.⁷⁸

The second initiative is Bill No. 3284 of 2021, currently being discussed by the Brazilian Senate.⁷⁹ According to this Bill, to qualify as an SB, an organisation would have to establish in its articles of association: (i) a commitment to the generation of a positive social and environmental impact while pursuing a corporate for-profit purpose; (ii) the duty of officers and directors to implement and monitor the achievement of a positive social and environmental impact; (iii) the obligation to, at least on an annual basis, draw up and publicly disclose an impact report; and (iv) solely for larger enterprises, the need to establish an impact committee in charge of monitoring and evaluating the social and environmental impact of the business's activities. The Bill also seeks to impose on officers, directors, members of the fiscal council and other bodies created by the articles of association, if any, as well as on shareholders, including controlling shareholders, the duty to assess the economic, social and environmental effects of the activities carried out by the business on local, regional, national and global communities, collaborators, suppliers and consumers.

Besides proposing the creation of the SB qualification – with similar requirements to the aforementioned draft – the Bill also suggests the creation of a Brazilian National Investment System and Impact Business (Sistema Nacional de Investimentos e Negócios de Impacto, SIMPACTO), which would be in charge of the coordination of ENIMPACTO and the state-level strategies aiming at fostering impact businesses.⁸⁰ ENIMPACTO's working group in charge of promoting

⁷⁷ ENIMPACTO, *Relatório anual de atividades do Comitê de Investimentos e Negócios de Impacto*, 2021, pp. 78–80.

⁷⁸ Information disclosed in 2019 by the specialised agency Kaleydos showed that the Bill had already been reviewed by the Ministry's counsel and was awaiting submission to the Chief of Staff of the Presidency, to be subsequently submitted to the Brazilian Congress in case of approval, according to <http://kaleydos.com.br/empresas-de-beneficio/>. According to their Annual Report for 2019, representatives of Sistema B Brasil state that they work 'with the Ministry of Economy as members of ENIMPACTO, collaborating with a project called "Empresas de Benefício" that enables certifications for businesses in Brazil': https://www.sistemabrasil.org/suhdo/storage/uploads/f8b83d96c49605fd64667c197f8ad52b/wysiwyg/pdf/Relat%C3%B3rio%20Anual%202019_FINAL.pdf.

⁷⁹ Available at <https://www25.senado.leg.br/web/atividade/materias/-/materia/149934>.

⁸⁰ After the creation of ENIMPACTO, eight of the 27 Brazilian states created, between 2019 and 2021, their own policies aimed at promoting impact businesses at the state level.

a legal framework suitable for impact business is also engaged in the discussions on the Bill, which, however, are currently at a very preliminary stage.

It is important to point out that, despite efforts by certain institutions to formalise the status of impact businesses, this is still a controversial topic among the members of the Brazilian ecosystem. Many question the real need for a proper legal qualification for impact businesses – mainly because this could allegedly create obstacles to the use of other legal formats for impact business development⁸¹ – even though some disadvantages are frequently pointed out, such as difficulties with or lack of incentives for the development of programmes aimed at impact businesses.

5. CONCLUSION

Although incipient, the Brazilian industry of impact businesses, especially since 2014, has been increasing in maturity, particularly through an ecosystem that encourages companies with a double bottom line. Government authorities' agencies, intermediary organisations, social entrepreneurs, investors and many other individuals and institutions are part of a community whose shared focus is to foster the Brazilian industry of impact businesses.

Despite the results achieved so far, which should be celebrated, there is a consensus among those involved in the Brazilian industry of impact businesses, both public and private, that many challenges remain. There is no specific legal form to incorporate impact businesses. More importantly, there are also no official mechanisms to identify these businesses, which may hamper promotion programmes or regulatory incentives.

Therefore, although in Brazil there is a coordination between entities of different natures and industries, including significant civil society organisations and governmental authorities, which are prepared to propose and debate issues that are important to impact businesses, there are few concrete measures that can be highlighted, and this reality does not seem to be close to any substantial change in the near future.

⁸¹ 'There is still no consensus on the need to create a specific corporate veil for impact businesses, nor a certification or stamp that would make these ventures stand out among others'. Alliance, *O Ecossistema de Investimentos e Negócios de Impacto entre 2015 e 2020*, São Paulo 2020, p. 45, <https://aliancapeloimpacto.org.br/wp-content/uploads/2020/12/2020-relatorioalianca-15-20-v09.pdf>.

APPENDIX

Table 1. Legal forms adopted by social enterprises in Brazil

	Possible purposes	Discretion and limitations in the interest of stakeholders	Legal limitations on profitable activities carried out	Legal limitations on the profit-sharing	Legal requirements for employee hiring
Limited liability companies (<i>sociedades limitadas</i> or LLC)	Lawful and possible purposes, not in violation of the law, public policies or good customs.	Must seek profit, although they are not prevented from setting impact goals.	Provided that the purposes are lawful and possible, not in violation of the law, public policies or good customs, businesses may conduct any economic activities for profit.	The profit distribution regime for businesses complies with the provisions of the applicable laws and the company's articles of incorporation; there is no limitation on the profit distribution to shareholders.	Subject to the eligibility requirements provided for in the applicable laws, it is up to the articles of incorporation, to the shareholders' meeting and to the management bodies appointing the company's officers. There are no specific criteria for the hiring of other employees.
Corporations (<i>sociedades anônimas</i> or SA)					
Cooperatives (<i>cooperativas</i>)		Must contribute with assets or services to conduct a certain economic activity for the common benefit of the cooperative members, without the objective of profit.	Provided that the purposes are lawful and possible, not in violation of the law, public policies or good customs, businesses may conduct any economic activities, which should occur, however, without the objective of profit and for the common benefit of cooperative members.	Proceeds of cooperatives' activities are shared in proportion to the transactions carried out by the associate or in accordance with bylaws. Any proceeds relating to transactions with non-associates should be allocated to the cooperative's 'Technical, Educational and Social Assistance Fund'.	

(continued)

Table 1 *continued*

	Possible purposes	Discretion and limitations in the interest of stakeholders	Legal limitations on profitable activities carried out	Legal limitations on the profit-sharing	Legal requirements for employee hiring
Associations (<i>associações</i>)	Non-profit purposes in general, without an exhaustive list defined by law.	Organised for the conduct of non-profit activities, which may include, for instance, social and cultural assistance, political representation, defence of class interests, philanthropy, among others.	May carry out profitable activities, but only on a secondary basis since the proceeds can only be used to maintain their non-profit purpose activity.	Necessarily non-profit activities. The distribution of proceeds or profits, if any, among associates or members is prohibited.	The association's bylaws should provide for the management method. Officers should necessarily be associates of the cooperative. There are no specific criteria for the hiring of other employees.
Foundations (<i>fundações</i>)	Foundations can only be organised for purposes of social assistance, culture, defence and conservation of historical and artistic heritage; education; health; food safety and nutrition; defence, preservation and conservation of the environment and promotion of sustainable development; scientific research, development of alternative technologies, modernisation of management systems, production and dissemination of information and technical and scientific knowledge; promotion of ethics, citizenship, democracy and human rights and religious activities.	Organised for the conduct of non-profit activities amongst the ones exhaustively defined by law.			The foundation's bylaws should provide for the management method. There are no specific criteria for the hiring of other employees.

Source: Compiled by the rapporteurs.

Table 2. Similarities and differences among legal forms adopted by social enterprises in Brazil

	Limited liability	Owners' rights regarding the management	Rights of other stakeholders regarding the management	Going concern	Transfer of ownership	Typical duties of diligence and loyalty	Voting rights of shareholders and stakeholders
Limited liability companies (<i>sociedades limitadas</i> or LLCs)	The liability of each shareholder shall be limited to the shares held.	One or more shareholders, or even non-shareholders, may manage the business. The articles of incorporation may provide for the existence of a board of directors or fiscal council; however, such bodies are not mandatory.		The company can be dissolved upon the expiration of its term, if any, by mutual agreement of the shareholders or by court order.	Shares may be transferred among shareholders or between the shareholders and third parties not related to the company, provided that there is no provision to the contrary in the articles of incorporation.	Typical duties of diligence and loyalty.	Shareholder resolutions will be adopted at a shareholders' meeting. There are specific quorums depending on the nature of the resolution. There is no provision regarding the participation of non-shareholders in corporate decisions.
Corporations (<i>sociedades anônimas</i> or SAs)	The liability of each shareholder will be limited to the issue price of the shares subscribed or acquired.	Management will be performed by a board of executive officers formed by two or more officers. There may be a board of directors and a fiscal council. Shareholders may be directors or officers, provided that they are	The law authorises the participation of representatives elected by employees on the board of directors in accordance with a statutory provision to that effect.	Corporations will duly continue to carry out their activities in case events set forth in the law, such as dissolution, liquidation and termination proceedings, are not initiated.	There are no restrictions on the transfer of shares.	Typical duties of diligence and loyalty.	There are (common) shares with voting rights and (preferred) shares with limited or even non-voting rights. Voting rights of common shares are in general proportional to the number of shares held by a shareholder. There is a possibility of establishing multiple votes for common shares.

(continued)

Table 2 *continued*

	Limited liability	Owners' rights regarding the management	Rights of other stakeholders regarding the management	Going concern	Transfer of ownership	Typical duties of diligence and loyalty	Voting rights of shareholders and stakeholders
		elected by the shareholders' meeting or by the board of directors. Publicly traded companies must necessarily have a board of directors.					
Cooperatives (<i>cooperativas</i>)	The liability of shareholders may be limited or unlimited.	Management bodies must be formed exclusively by members elected by the association's shareholders' meeting.		Cooperatives are dissolved upon expiration of their term, if any, by mutual agreement of the cooperative members or by court order.	The assignment of shares is subject to amendment of the cooperative's bylaws and, therefore, consent of the other cooperative members.	Typical duties of diligence and loyalty.	Each associate shall be entitled to a single vote.
Associations (<i>associações</i>)	Case law acknowledges that their associates are not responsible for the obligations of the legal entity.	The board of executive officers may be formed of elected, chosen or appointed associates/founders or professional officers engaged for that purpose.		Associations are dissolved upon expiration of their term, if any, by mutual agreement of the cooperative members or by court order.	As a rule, the positions of the associates are not transferable unless there is a previous provision in the bylaws to the contrary.	There are no specific provisions in this regard, but if there are irregularities, managers can be held accountable.	Decisions are made by a majority of votes of the associates attending the meeting.

Foundations (<i>fundações</i>)	Not applicable.			Foundations will be terminated in case they become illegal, impossible or useless, or upon expiry of their term, if any.	Not applicable.		According to the foundation's bylaws.
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Source: Compiled by the rapporteurs.

