

International Law & Trade – Law Firms

Proskauer Rose's São Paulo Office: Poised To Participate In Brazil's, And Latin America's, Bright Future

The Editor interviews **Antonio N. Piccirillo**, Partner, Proskauer Rose LLP.

Editor: Mr. Piccirillo, would you tell our readers something about your professional experience?

Piccirillo: I've been practicing law since 1995, when I graduated from Fordham Law School. Prior to that I did my undergraduate work at the Georgetown School of Foreign Service, which included a one-year study abroad at Pontifícia Universidade Católica do Rio de Janeiro. Following law school I joined Mayer Brown, where I worked through the ranks and became a partner. Even as a mid-level associate I was aware of the need for the firm to have a presence in Latin America, particularly in São Paulo, which is the region's principal commercial center and where my practice was gravitating. I realized that in order to substantially grow the Latin American practice an office in São Paulo was a necessity.

Proskauer Rose expressed considerable interest in the idea of a permanent presence in Latin America, and we quickly came to a meeting of the minds. Within a year of my arrival (in October 2005) the decision to open an office in Brazil had been made – by unanimous vote of the partnership. The firm is extremely well managed, and all of the partners are committed to growing the firm's business for everyone. The firm-wide practice areas are broadly diversified, which means that a number of specialized areas serve as a hedge when other areas are experiencing a downturn in business. Joining Proskauer has been an excellent step for me.

My practice consists of representing financial institutions and companies in a variety of transactions involving Latin America, particularly Brazil. These transactions include debt and equity offerings, bank financings, syndicated loans, securitizations, project finance, mergers and acquisitions and debt restructurings. In addition to these undertakings, we conduct a practice in advising foreign companies in their dealings with the Securities and Exchange Commission, including Sarbanes-Oxley compliance matters.

Editor: You are dealing with both inbound and outbound investment then?

Piccirillo: Yes. People often think of lawyers with a Latin America practice as either representing U.S. enterprises conducting operations in Latin America or Latin American companies conducting business in the U.S. Except for our work in the mergers and acquisitions area, we don't think of our practice in quite those terms. Rather, we think of ourselves as having essentially a geographical focus, which means we carry on a great variety of work without a particular emphasis on any one legal discipline. This makes for an extraordinarily interesting practice.

Editor: Would you give us an overview of the firm's Latin America practice group?

Piccirillo: The group consists of about 15

people, including three partners who practice extensively in Latin America: Carlos Martinez, Vince Paparo and me. Each of us has areas of specialty, but we all handle a wide range of matters, and that is because, as I have indicated, we are not so much a product-driven group as one with a cultural and geographical orientation. By the time a person is a senior associate in the Latin America practice, he or she has done bank finance work, bond offerings, project finance, securitizations and a number of other transactions. We cover all the bases, and this constitutes a valuable educational experience for our associates.

Editor: Who are the clients?

Piccirillo: Our clientele is a diversified mix. We have financial institution clients that are based in the region or abroad, including WestLB AG, Banco Santander, Banco Itaú-BBA and ABN AMRO. On the corporate side, we represent a number of prominent companies based primarily in the region in connection with their cross-border transactions and SEC compliance matters. One of our clients is the Votorantim Group, which is a Brazilian industrial conglomerate that has in recent years acquired a number of companies throughout Latin America, the U.S. and China. We have handled much of this M&A work for them. We have also counseled individuals with respect to insider trading and a variety of SEC issues. In addition, we represent Latin American companies in connection with litigation in the U.S., where my practice group acts as a liaison with the firm's litigation teams.

Editor: So you have your own practice group, but you are also drawing upon the resources of the entire firm on an as-needed basis.

Piccirillo: Absolutely. I've referred to litigation, but we have open lines of communication across the firm, particularly with respect to private equity, broker-dealer matters, taxation, intellectual property and labor and employment. There are few areas of the firm-wide practice that do not make a contribution to our success.

Editor: Where are you trying to grow the practice?

Piccirillo: One area where we have begun to focus considerable attention is project finance. We have just closed a major transaction for the construction of a container terminal port in Buenaventura, Colombia, in which we represented the banks. We are also representing the banks in connection with a major expansion of Antigua's airport, and we are interested in becoming involved in the next wave of infrastructure projects in Brazil. One of the areas I covered at Mayer Brown was oil platform construction financings in Brazil, and I am hopeful that our group at Proskauer will be able to do some of this work in the future.



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Editor: Are any of these deals public-private partnerships? Are you getting involved with the government as well as private venture capital?

Piccirillo: We have not been engaged in any exclusively public-private partnership transactions as yet, although whenever a deal has a Brazilian oil industry connection Petrobras is present. The state is involved, but not necessarily under the rubric of the public-private partnership laws.

Editor: How about ADR work?

Piccirillo: The firm's ADR practice is based in our New York and Paris offices, and we are actively looking to become more involved in Brazil in this area because the country recently passed an arbitration law that has been recognized as enforceable by Brazilian courts. There has been some inconsistent case law in Brazil regarding the enforcement of such awards, however, but as a whole we are hopeful that this will be a growth area for Brazil.

I cannot stress enough how important a step forward enforceability of arbitral awards would be, for Brazil and for the entire region. Brazil is by far the largest market in the region, and one of the key investor concerns has been whether their agreements are enforceable. In light of the immense backlog that the Brazilian judicial system faces at present, any process that makes the resolution of disputes efficient, fair and timely is going to have a positive impact on the decisions that investors make to enter the region.

Editor: And compliance?

Piccirillo: The services we offer with respect to compliance are focused primarily on foreign issuers that are subject to SEC registration and periodic reporting requirements. The rules for foreign issuers are slightly different from those applicable to domestic issuers, and I should note that the SEC is always looking to strike a balance between the need to protect American investors interested in the securities of foreign issuers and the need to make the U.S. market a viable option for foreign issuers. There is an ongoing debate here, but I would say that in the past few years the SEC has become increasingly aware of the need to avoid making our rules too burdensome for foreign issuers.

Editor: In recent years the region has known a measure of instability, both economic and political. Criminal gangs in Mexico, warfare in Colombia, the possibility of Bolivia breaking up, increasing Venezuelan hostility toward the U.S. – the list is pretty long. How does all of this impact doing business in the region?

Piccirillo: Well, if there is a bright side to the instability to which you refer it has to be that investors are finally coming to realize that Latin America is not a single entity. What happens in Argentina, for example, is *not* necessarily what is going to happen in Brazil. Political and economic crises in other countries in the

region may have an impact on Brazil, but in light of the increasing maturation of the Brazilian economy the chances of a major, and negative, impact on the Brazilian economy are much lower than in previous years. In sum, each of Latin America's economies is distinct, and while there is a connectedness among them, each operates subject to its own risk factors.

You mentioned open warfare in Colombia. The country is investment grade, and Bogotá is a splendid, modern city far from anyone's conception of a war zone. Brazil has also become investment grade, and that has resulted in a huge boost for the economy. The country has always had a strong presence in the debt capital markets, but in becoming investment grade an entirely new universe of investors is now looking at Brazil and Brazilian companies as investment destinations. Borrowing costs for issuers, accordingly, have been coming down. While that state of affairs has been offset by the recent liquidity crisis in the international market, we have still seen a strong surge in the number of new debt deals. Given the strong fundamentals of the Brazilian economy, we are hopeful that Brazil will be relatively well-positioned to ride out the storm.

Editor: If I may ask the same question from the opposite perspective, what kind of impact is the very positive developments we see coming out of Brazil having on people's perception of the future?

Piccirillo: There has always been a quip that Brazil is the country of the future...and always will be. Well, I think for the first time a great many Brazilians believe that the future is now. Even with all the scandals that continue to plague the political arena, the country has seen unprecedented growth in recent years, and most international commentators would name it as one of the most stable countries in the region from an economic and political standpoint. In terms of volume, the São Paulo stock exchange is the largest in Latin America, and its reach is increasingly international. Companies from other countries are now beginning to list their securities in the form of Brazilian depositary receipts (which are similar to American depositary receipts), and I think in the coming years we will see an increasing number of Latin American companies access the liquidity of the São Paulo exchange in the form of BDRs. Absent some major collapse in the international financial markets, we are counting on continued growth in Brazil.

Editor: Is there anything you would like to add?

Piccirillo: One thing I would like to emphasize is that Proskauer Rose's decision to establish a presence in São Paulo was *not* based on a desire to simply exploit the short-term boom in Brazilian IPOs. We developed a detailed analysis of Brazilian economic conditions and the potential for growth in Latin America as a whole, and we made the decision to open the São Paulo office as part of a long-term strategy to participate in the growth of the Brazilian and other Latin American economies.

Please email the interviewee at apiccirillo@proskauer.com with questions about this interview.