INSIGHT: INTERNATIONAL BONDS AS AN ALTERNATIVE TO DEBENTURES FOR BRAZILIAN ISSUERS

A bond is a debt obligation issued by a corporation or government for funding purposes. When investors buy a corporate bond, they are lending money to the corporation in return, in most cases, for the right to receive periodic interest (coupon) payments and the return of their principal amount at maturity.[1] In Brazil, *debentures* and *notas comerciais* (commercial paper) are the local debt securities equivalent of bonds, which are issued under Brazilian law and are governed by local regulations, notably Law No. 6,404/1976 (the "Brazilian Corporate Law") and Law No. 14,195/2021.

Domestic debt issuance is a widely used funding tool for Brazilian companies and is largely dominated by debentures.[2] Brazil's fixed income market has expanded significantly, with companies issuing hundreds of billions of Brazilian *reais* (BRL) in recent years.[3] For instance, from January to August 2024, total domestic issuance of fixed income securities reached BRL 484.2 billion (≈USD 96 billion), with debentures accounting for approximately 59% of that total.[4] In the first quarter of 2025, companies issued a record BRL 103 billion (≈USD 18.7 billion) in debentures (out of BRL 152.3 billion—≈USD 27.7 billion—of total domestic issuance).[5]

On the other hand, despite the undisputed dominance of debentures as the preferred funding domestic tool, international bonds have also served as a complementary—and, in some cases, alternative—funding option for Brazilian issuers. In the first quarter of 2025, Brazilian companies issued USD 11.1 billion in international bonds in 12 deals—the highest first quarter volume since 2014.[6] In 2024, Brazilian issuers raised approximately USD 21 billion through international bond issuances,[7] surpassing the USD 16.1 billion raised in 2023 and reflecting a continued increase from USD 10.7 billion in 2022.[8] These numbers highlight a clear and consistent upward trend in international bond issuance by Brazilian companies.

This article provides a practical comparative analysis of the key factors that companies should consider when choosing between issuing debentures locally and issuing bonds internationally, with a focus on the regulatory framework applicable in Brazil and in the U.S. and European markets.

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[1] Certain corporate bonds may not pay periodic interest/coupon payments. Instead, they may be structured as convertible bonds, include attached warrants (warrant bonds), have no maturity date (perpetual bonds), or feature alternative payment mechanisms such as payment-in-kind (PIK) or toggle structures.
[2] ANBIMA, "*Ofertas no mercado de capitais atingem volume recorde de R$ 152,3 bilhões no 1º trimestre de 2024*."
[3] Idem.
[4] ANBIMA, "*Mercado de capitais registra captação de R$ 47,3 bilhões em agosto e ultrapassa o volume de 2023.*"
[5] B3, *"Explosão da renda fixa faz emissão de debêntures bater recorde no 1º trimestre."*
[6] Valor International. "*Brazilian market sees record R$152bn in Q1 fundraising.*"
[7] Valor International. "*Bond sales outlook for early 2025 still positive despite uncertainties.*"
[8] Valor International. "*Bond issuance abroad surpasses 2023 totals*."

Bonds versus Debentures

Brazilian companies should weigh the pros and cons of funding through local debentures versus international bonds.

Market Access and Investor Base

International bonds enable Brazilian issuers to access a broader global investor base, including institutional investors in the United States, Europe, and other markets. Most transactions are structured in reliance on Rule 144A and Regulation S, permitting placement to qualified institutional buyers ("QIBs") in the United States and to non-retail investors who are non-U.S. persons abroad, as defined by local regulation. Access to retail investors abroad is limited to public offerings registered with the relevant authority, such as the U.S. Securities and Exchange Commission (the "SEC") or an EU national regulator, and may entail disclosure, prospectus requirements, and ongoing reporting obligations.

In the domestic market, public offerings of debentures are governed by Resolution No. 160/2022 (the "CVM Resolution 160"), which provides distinct procedures depending on the investor class (e.g., retail, qualified or professional investors, as defined by CVM Resolution No. 30/2021)[9] and the type of issuer (e.g., frequent issuer, well-known seasoned issuer (EGEM), publicly held and privately held companies). Offerings directed exclusively to professional investors benefit from a simplified and automatic registration process, whereas offerings to qualified or retail investors entail the preparation of a prospectus that complies with more extensive disclosure requirements and may also be subject to prior review by the CVM. Offerings by privately held companies exclusively target professional investors, but may also target qualified investors in the case of "incentivized debentures" issued under Law No. 12,431/2011. For further details on incentivized debentures and their tax treatment, see the "Tax Considerations" section below.

Liquidity

The secondary market for debentures in Brazil operates predominantly through the over-the-counter platform managed by B3 (Cetip UTVM) under a system of registration and custody subject to CVM rules. Although recent market developments have led to a gradual increase in trading volumes,[10] liquidity remains relatively limited and concentrated. Debentures are frequently acquired in primary offerings by institutional investors, such as investment funds, insurance companies, and financial institutions, which commonly hold the securities to maturity.[11] As a result, secondary trading activity is sporadic, with limited pricing transparency, particularly in the case of smaller issuances. In addition to the market particularities, the Brazilian regulatory framework itself imposes legal limitations on liquidity in certain offering

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[9] Under CVM Resolution No. 30/2021, "professional investors" include, among others: financial institutions, insurance companies, pension funds, investment funds, non-resident investors, asset managers and securities consultants authorized by the CVM, and individuals or legal entities with over BRL 10 million in financial investments. "Qualified investors" include all professional investors and individuals with more than BRL 1 million in financial investments.

[10] Valor Econômico. *"Negociação de debêntures no mercado secundário cresce 39% em 2024 e bate recorde."*

[11] In offerings by frequent issuers or well-known seasoned issuers (EGEM) directed exclusively to professional investors, secondary market trading tends to be more common six months after the closing of the offering, when the debentures offered become eligible for trading by retail investors, in accordance with CVM Resolution 160.

structures. Pursuant to CVM Resolution 160, the secondary trading of securities sold in offerings targeting only professional or qualified investors remains restricted to such investors.

Bonds tend to benefit from broader secondary market liquidity. Securities issued under Rule 144A are eligible to be traded among QIBs in the U.S. secondary market, as permitted by Rule 144A under the U.S. Securities Act of 1933 (the "Securities Act"). Regulation S securities become eligible for offshore resale following the expiration of the 40-day distribution compliance period and are commonly settled through international clearing systems, such as Euroclear and Clearstream. Securities placed pursuant to the exemption under Section 4(a)(2) of the Securities Act, however, are subject to transfer restrictions and may not have a recognized resale market, which substantially limits their liquidity. Bonds issued under an effective shelf registration statement with the SEC are freely tradable and may be listed on national securities exchanges.

Currency

Debentures issued in the Brazilian domestic market are denominated in *reais* (BRL),[12] which may be preferable for issuers with predominantly local currency revenues. International bonds, in turn, are typically denominated in foreign currencies—most commonly U.S. dollars (USD) or euros (EUR)—offering access to broader investor bases and, depending on market conditions, potentially more competitive pricing. These foreign currency issuances, however, involve exchange rate risk, which can be managed through hedging or naturally offset when the issuer has revenues in the same currency (such as exporters and multinational companies). These companies often consider foreign currency bonds to be a strategic funding alternative. In recent years, issuers have also begun to explore non-traditional currency markets: In 2024, Suzano became the first Brazilian company to issue a "Panda Bond," raising RMB 1.2 billion (approximately USD 165 million) in China's domestic market.[13]

Deal Size

International bond markets generally allow for larger volumes to be raised in a single transaction, due to broader access to global institutional capital. In 2024, for instance, Brazilian issuers raised approximately USD 21 billion in roughly 30 international bond offerings, an average of about USD 700 million per transaction.[14] In the domestic market, although some transactions are substantial, many offerings are comparatively smaller, often in the range of a few hundred million Brazilian *reais*.

Interest Rates

The cost of servicing debt instruments varies depending on the currency of issuance and prevailing macroeconomic conditions. For foreign currency-denominated bonds, the effective cost in BRL is directly affected by exchange rate movements: an appreciation of the BRL reduces the local currency cost of repayment, while a depreciation increases it.

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[12] As a rule, debentures must be denominated in BRL. However, pursuant to Article 54 of the Brazilian Corporate Law, the terms of issuance may provide for alternative remuneration structures, including linkage to foreign currency variation—such as the U.S. dollar (e.g., PTAX)—subject to applicable regulations.
[13] Latin Lawyer. "*Suzano becomes first Brazilian company to issue panda bonds.*"
[14] Valor International. "*Bond sales outlook for early 2025 still positive despite uncertainties.*"

These instruments generally carry fixed interest rates in hard currency. Debentures issued in Brazil, on the other hand, are usually denominated in BRL and linked to local benchmarks, such as the CDI rate or inflation indices (e.g., IPCA + spread), which are influenced by domestic monetary policy. Periods of elevated Selic rates (Brazil's official base interest rate), as observed over the past few years, tend to increase the cost of local funding. The relative cost-effectiveness of international versus domestic issuance may, therefore, vary depending on interest rate differentials, inflation expectations, and the issuer's currency risk management strategy.

Tax Considerations

In both bond and debenture issuances by Brazilian companies, tax considerations are important.

An issuer should consider the applicability of Withholding Income Tax (IRRF or WHT) on interest payments to investors, the Tax on Financial Transactions (IOF) on certain credit or foreign exchange operations, and Corporate Income Taxes (CIT) on the issuer's taxable income. Interest payments under both instruments are generally deductible for CIT purposes, provided that applicable legal requirements are observed. However, the specific tax treatment and associated regulatory costs may differ depending on the instrument (debentures or bonds) and the structure adopted for the offering.

Debentures issued in Brazil are subject to WHT on interest paid to individuals and non-exempt legal entities at a 15% (or 25% if the beneficiary is in a tax heaven).[15] However, specific exemptions apply (i.e., 0% WHT) for "incentivized debentures," which are exempted from WHT when the holder is a Brazilian individual. These securities are governed by Law No. 12,431/2011 and must be used to finance infrastructure or intensive economic production in research, development and innovation sectors. Although this exemption legally benefits the investor, it can also reduce the issuer's effective cost of capital, as investors generally accept lower gross interest rates when not subject to withholding tax.

Additionally, recent Law No. 14,801/2024 created the "infrastructure debentures," which are a new structure. While both incentivized and infrastructure debentures are aimed at funding infrastructure, each one has its own legal framework, with different tax incentives: for the incentivized debentures, the tax benefit applies to the investor as described above, while for the infrastructure debentures it applies to the issuer, which can deduct an additional 30% of interest payments from the CIT tax bases. The two regimes coexist and are complementary—issuers may choose the most efficient option based on their profile and investor base. Environmental projects (e.g., green bonds or *debentures verdes*) might also benefit from these tax exemptions if the requirements are met.

Finally, Law No. 14,801/2024 also created the "incentivized bonds" structure, which extends WHT exemptions to foreign investors on qualifying infrastructure-related bonds

[15] There is a Provisional Measure (n. 1303) under analysis by the National Congress that may increase the WHT rate on interest from 15% to 17.5%--this tax change would be valid as from 2026. It is not possible to foresee if this Provisional Measure will be passed into law by the National Congress.

issued by Brazilian companies, even when such offerings are placed abroad. As in the case of domestic exemptions, this might benefit the issuer by improving investor appetite and reducing the required gross yield.

Brazilian international bonds can be issued through offshore special purpose vehicles (SPVs), commonly incorporated in jurisdictions like the Cayman Islands or the British Virgin Islands. These SPVs act as the issuers, and interest is paid directly to foreign investors meaning that no Brazilian WHT would be triggered.

Meanwhile, the Brazilian operating company receiving the funds (through intercompany loans or equivalent arrangements) may deduct the corresponding financial expenses, subject to transfer pricing, thin capitalization, and general anti-avoidance local rules.

Covenants

Debentures are governed by Brazilian law and generally include standard covenant packages reflecting local market practice, such as limitations on indebtedness, maintenance of financial ratios, and other protective clauses. Bonds are usually governed by New York law and may follow different covenant standards depending on the issuer's credit profile. For instance, high-yield issuances (involving higher credit risk) often include more restrictive covenants and investor protections, while bonds issued by "investment-grade" companies tend to feature significantly lighter covenant structures—sometimes with no guarantees or financial covenants, limited to basic restrictions. *Investment-grade* refers to issuers whose credit rating is at or above a minimum threshold established by international rating agencies (e.g., BBB- by S&P or Fitch, or Baa3 by Moody's). These issuers are generally perceived as having a low risk of default and, therefore, benefit from more favorable market conditions and reduced covenant demands.

Regulatory Requirements

Issuing and offering domestic debentures requires compliance with the Brazilian Corporate Law and CVM Resolution 160, among other rules. Since 2023, all public offerings (including debenture offerings) must be registered with the CVM. When the offering targets qualified and retail investors, this process includes preparation of a prospectus in Portuguese and may involve prior CVM or another regulator review (such as ANBIMA), depending on the offering structure. Offerings directed exclusively to professional investors are eligible for automatic registration and are exempt from the prospectus requirement. In addition, debenture offerings may be registered for trading on the B3 stock exchange, and, if so, the issuer must also comply with ongoing disclosure obligations before the CVM.

By contrast, CVM Resolution 160 provides a "safe harbor" for foreign bond offerings, exempting them from CVM registration and disclosure requirements if: (i) the offering is conducted entirely outside Brazil; (ii) the bonds are denominated in a foreign currency; (iii) the offering targets only professional investors and are settled through accounts held abroad; and (iv) the bonds are not traded on regulated securities markets in Brazil.

The Brazilian issuer must register the foreign borrowing with the Brazilian Central Bank and comply with exchange control rules, but there are no offering procedures with the CVM for bond issuances abroad.

Issuance Costs

In Brazil, debenture offerings involve regulatory fees (CVM, B3 and ANBIMA), underwriting commissions, legal counsel fees, and documentation expenses, but overall transaction costs tend to be lower due to the localized scope and standardized procedures under CVM Resolution 160. For offerings targeting professional investors, the automatic registration regime further reduces regulatory burdens and costs. International bond offerings entail substantially higher upfront costs. These include dual legal counsel (Brazilian and international), underwriter fees aligned with international market practice, listing expenses (when applicable), and documentation in accordance with U.S. securities laws and global standards. Additional costs arise from cross-border structuring, due diligence, clearing arrangements (e.g., DTC, Euroclear), and compliance with exchange control rules in Brazil. However, 144A offerings allow Brazilian issuers to access U.S. institutional capital more rapidly and at a lower cost than fully registered SEC offerings. Additionally, shelf-registered offerings, while requiring SEC registration, can reduce costs for subsequent deals.

Aspect	Bonds	Debentures
Market Access and Investor Base	Large international markets; access to global institutional investors (QIBs, foreign funds)	Primarily domestic market; mainly Brazilian institutional investors (pension funds, banks)
Liquidity	Relatively liquid in the case of Rule 144A/Reg S deals; active secondary trading	Limited secondary market
Currency	USD/EUR or other (currency risk for BRL-based issuers)	Brazilian Real (no foreign exchange risk for local currency issuers)
Typical Deal Size	Large (often USD 100 million+)	Can be smaller; flexible sizing to match issuer's needs
Interest Rates	Can be lower than the interest rate for debentures, depending on global rates and issuer profile	Often tied to CDI or IPCA, typically higher rates
Tax Considerations	Interest generally tax-deductible; withholding tax exemption for offshore vehicles and infrastructure bonds	Interest generally tax-deductible; local tax incentives for certain debentures (e.g., infrastructure)

Covenants	Typically include standard international covenants; more restrictive for high-yield deals	Traditionally lighter than covenants in bonds issuances; typically more robust in larger or incentivized issuances
Regulatory Requirements	No CVM registration if fully offshore (safe harbor under CVM Resolution 160); no SEC registration or ongoing disclosure for Rule 144A/Reg S and private placements	CVM registration required for all public offerings; ongoing disclosure obligations; private issuances are ruled by the Brazilian Corporate Law
Issuance Cost	Higher (international underwriting, dual legal counsel, global documentation standards)	Lower (domestic underwriters, simpler documentation, local regulatory fees)

Regulatory Pathways for Issuing Bonds

Brazilian issuers have several possible alternatives for accessing the foreign markets. The most common pathways are (1) Rule 144A/Regulation S offerings, (2) private placements, and (3) SEC-registered (shelf) offerings, as outlined below.

Rule 144A/Reg S

Rule 144A and Regulation S historically have been the most common structures adopted by Brazilian issuers accessing the international bond markets. Rule 144A allows for the placement of securities with QIBs in the United States without the need for SEC registration, provided certain resale restrictions are observed. Regulation S permits the offer and sale of securities outside the United States to non-U.S. investors, treating such offshore transactions as exempt from U.S. registration requirements. It is common, however, for companies to opt for a combined Rule 144A/Reg S structure, in which both tranches are offered simultaneously within a single transaction. This dual-track approach enables broader investor reach by targeting U.S. institutional investors under Rule 144A and global investors under Regulation S. In practice, issuers usually engage international investment banks to coordinate the offering and manage the bookbuilding process across both markets, although it is legally possible to conduct such offerings without underwriters, particularly in limited distribution contexts. Documentation and due diligence standards are robust, mirroring those of registered offerings.

These offerings are exempt from SEC and CVM registration. Therefore, they are not subject to SEC reporting obligations or CVM registration or review.

Private placements

Private placements refer to non-public offerings of securities made to a limited number of institutional or qualified investors, typically conducted under exemptions from registration, such as Section 4(a)(2) of the U.S. Securities Act. Such deals have lighter documentation requirements (an investor presentation instead of a full offering memorandum) and can include amortization or bullet structures negotiated on a case-by-case basis depending on the specific investor demand. These offerings typically target sophisticated institutional investors that intend to hold the securities to maturity. Private placements can be executed quickly, but they lack broad market liquidity. Brazilian issuers have used this route when tapping specialized investors or to address smaller financing needs.[16] Since these are not public offerings, they require no SEC or CVM registration. Private placements tend to carry higher interest costs (reflecting lower liquidity) and include structured terms tailored to the particular investor.

SEC-registered offerings (shelf programs)

Shelf registrations are common in the United States and allow issuers to register securities with the SEC without a present intention to issue so that the issuer has the flexibility to access the market when there is a funding opportunity. In Brazil, there is no equivalent mechanism. This model is available only to issuers already registered with the SEC in the United States that seek flexibility to access the American debt market. SEC-registered offerings (shelf programs) involve filing a registration statement (e.g., Form F-3 for eligible foreign issuers) with the SEC. A shelf registration allows the issuer to sell debt into the market on short notice, in multiple tranches, up to a defined limit. The advantages are broad investor reach (including the possibility of U.S. retail or any institutional investors) and flexibility associated with continuous market access. The principal consideration, of course, accompanying this alternative is that an issuer must be willing to become a reporting company in the United States and be willing to bear the burdens associated with the reporting and compliance requirements and associated costs. A few large Brazilian issuers (like Gerdau[17] and Petrobras) have used SEC-registered shelf offerings in the past to tap U.S. debt markets. Shelf offerings require SEC prospectus delivery and compliance with U.S. securities laws. If the securities are offered to Brazilian investors outside the safe harbor conditions established by CVM Resolution 160, the offering must also be registered with the CVM.

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[16] Examples of private placements by Brazilian issuers: Itaú Unibanco's BRL 1.4 billion private placement fully subscribed by IFC and IDB Invest, (IFC press release, March 2025, available at: https://www.ifc.org/en/pressroom/2025/ifc-idb-invest-forge-partnership-with-itau).

[17] Tauil & Chequer Advogados, in association with Mayer Brown LLP, advised on the transaction.

Conclusion

In recent years, Brazilian companies have increasingly turned to the international bond markets to diversify their funding sources, access a broader and more sophisticated investor base, and secure larger volumes and longer maturities than those typically available in the domestic debenture market. While international bond issuance involves greater regulatory complexity, higher upfront costs, and exposure to foreign exchange risk, it offers enhanced liquidity, competitive pricing, and access to global capital. Issuers should be guided by the issuer's funding strategy and diversification objectives. Increasingly, Brazilian companies are combining both domestic debentures and international bond issuances as part of a comprehensive and flexible approach to their funding strategies.

This note is part of a series of practical legal insights on the international debt markets for Brazilian companies. Follow our page for future updates.

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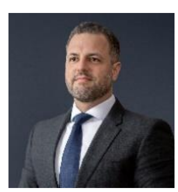

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