

# M&A in Brazil: How To Improve Results Through Due Diligence

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by **Steven Neuman**

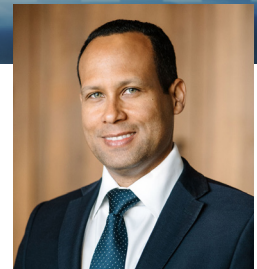
Despite the adverse effects of the coronavirus crisis, Brazil experienced a marked recovery in M&A activities last year, with a record 1,200 transactions announced, substantially more than the historical average of roughly 800 transactions.<sup>[1]</sup>

As of the end of April 2021, 509 deals were announced or closed, making it clear that Brazil continues to offer attractive investment opportunities for local and foreign investors alike.<sup>[2]</sup> With an increase of potentially distressed or otherwise high-risk businesses on the offering block, however, pandemic- or compliance-related “skeletons” that remain hidden during basic due diligence could have a potentially devastating impact on investors

## Moving Beyond Basic Due Diligence to Business Intelligence

During basic due diligence as part of an M&A transaction, most buyers work to understand past financials and revenue projections, potential obligations being assumed as part of the deal such as problematic contracts with high-risk vendors and/or third-party consultants, as well as potential conflicts of interest.

Adequate due diligence and the use of enhanced business intelligence techniques aim to close any information gaps so that there are no costly surprises once the ink on the transaction is dry. For example, although basic due diligence might uncover pending litigation involving the target company, enhanced due diligence would identify the specific government official set to hear the case and forecast the odds of a favorable outcome based on the official’s track record. Business intelligence would go a step



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further to offer insights into any relationships the government official may or may not have related to the target company directly, as well as any affiliated parties of the potential target.

As Brazil has historically been engulfed in high-profile, international anti-corruption probes, investors increasingly require more meaningful insights than basic due diligence can provide. Savvy deal teams are now focused on identifying past relationships of company management, any links to cartels, potential export trade control issues and any prior compliance matters. Particularly if the investment originates outside of Brazil or impacts another foreign jurisdiction (assets or liabilities), enhanced due diligence and the use of business intelligence techniques, are critical.

## What To Look For

Although myriad data sources abound in our hyper-connected digital age, distilling these volumes of information into meaningful, helpful insights is still difficult. Data analytics can assist in strategically identifying red-flag or outlier transactions that should be selected for further analysis. Furthermore, data analytics should be used to cross-reference data points to identify

any potential conflicts of interest—linking Board members, shareholders or even the spouses of management to politically exposed persons (PEPs), for example. This information can then be used to make business intelligence-gathering efforts most productive.

## Seeing the Bigger Picture

Clearly, pre-investment basic due diligence simply does not reveal the potentially questionable patterns of behavior that can often turn into costly legal and reputational issues for the buyer down the line. Both Brazil's Clean Company Act and the United States' Foreign Corrupt Practices Act (FCPA) establish successor and third-party liability for acts of corruption, making it crucial that firms considering investment in Brazilian companies take a more holistic approach to due diligence in order to prevent fraud, business failure or reputational damage. Only when diligence is taken to the next level can questionable issues be addressed—and often explained—without negatively impacting deal ROI.



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<sup>[1]</sup> Source: <https://mnacommunity.com/insights/experts-show-optimism-for-the-ma-market-in-brazil-in-2021/>

<sup>[2]</sup> Source: <https://www.ttreCORD.com/en/publications/market-reports/monthly-report-brazil/Brazil-April-2021/2029/>

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