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Brazilian "Blocking Statute" Reshaping the Global Landscape

In light of the sanctions imposed on Minister Alexandre de Moraes, the Brazilian Supreme Federal Court (STF) recently issued a decision reaffirming that foreign laws and acts do not have automatic effect in Brazil—essentially establishing what is known in international law as a “blocking statute.” For companies with operations in both Brazil and the U.S., this creates a clear dilemma: complying with U.S. sanctions may violate Brazilian rules; ignoring them may result in penalties in the U.S.

A Brazilian Supreme Court Justice has determined that the high court must ratify foreign laws, decrees, acts, and executive orders before they take effect in Brazil. The ruling seeks to address recent events—such as the decision by victims of the Mariana Dam disaster to seek relief in UK courts and the imposition of U.S. sanctions on Brazilian Supreme Court Justice Alexandre de Moraes, for example—that the Court views as threats to Brazil’s national sovereignty.

In light of this Brazilian ruling, financial institutions, companies, and commercial counterparties with exposure in both the U.S. and Brazil now find themselves in a seemingly impossible position—complying with U.S. sanctions risks violating Brazilian law, while adhering strictly to Brazilian requirements could trigger U.S. penalties.

At-risk entities and individuals may be able to mitigate potential risks, provided they act early and decisively:

1. **Execute a Stress Test.** Identifying where U.S. enforcement priorities intersect with blocking statutes is essential. A comprehensive stress test should identify the practical risks associated with conflicting obligations, including reputational, regulatory, and commercial consequences.
2. **Navigating Multiple Legal Regimes.** Success across borders often depends on developing solutions acceptable to courts and enforcement authorities in more than one jurisdiction. This may involve, for example, mapping cross-border data flow rules to ensure compliance (to use the most recent example) with both U.S. and Brazilian requirements—especially where conflicting regimes could otherwise invite scrutiny or investigations.

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3. **Anticipate Reputational Risks.** As political and judicial decisions evolve as they are reproduced through public commentary, tracking coverage in both countries' media outlets is critical. Companies should also consider integrating lawful proactive reputation management strategies to counter misinformation and minimize the risk of collateral damage in politically driven disputes.
4. **Pursue Legal Remedies.** For those facing acute conflicts and existential business risks, pursuing declaratory rulings to affirm certain foreign measures that cannot be enforced domestically can provide critical protection. Transparency when responding to inquiries or requirements from both countries' authorities can further help manage expectations and navigate conflicting demands across jurisdictions.

The recent Brazilian "Blocking Statue" illustrates the growing tension between global sanctions enforcement and domestic legal sovereignty. For companies, financial institutions, and individuals with cross-border exposure, foresight, documentation, and coordinated legal strategy are essential.

About Kobre & Kim

Kobre & Kim is a global law firm focusing on cross-border disputes and investigations, often involving fraud and misconduct.

To preserve the assets, liberty, and reputation of global businesses and ultra-high-net-worth individuals with global business interests, our team:

- Provides offensive and defensive cross-border litigation and crisis management strategies in and out of court.
- Positions uniquely to help clients in Latin America through our U.S.- and UK-qualified disputes teams in São Paulo and Miami that routinely act in cross-border government investigations involving Latin American and foreign authorities.
- Has deep experience with global foreign policy, national security, and economic controls; regularly interfaces with regulatory agencies that impose these controls.