

## EXCHANGE AGREEMENT No. 35

Exchange Agreement No. 35 (EA 35), entered into by the National Executive and the Venezuelan Central Bank (VCB), was published in Official Gazette No. 40.865 of 3-9-2016. EA 35 contains new Rules that will govern the Transactions of the Foreign Currency Administration Regime and it entered into force on 3-10-2016. Below is a summary of its most important aspects:

**Protected rate of exchange DIPRO.-**

1. EA 35 fixes the so-called protected rate of exchange (*tipo de cambio protegido - DIPRO*) at Bs. 9.975 per dollar for purchase and Bs 10.00 per dollar for sale and repeals Exchange Agreement No. 14 (EA 14), which established the rate of exchange for sale at Bs. 6.30 per dollar.

1.1 However, according to article 14 of EA 35, the foreign currency for transactions of acquisition of foreign currency for imports that have (i) the Authorization for Delivery of Foreign Currency (*Autorización para Liquidación de Divisas - ALD*) issued until the day preceding the entry into force of EA 35, (ii) the Authorization for Acquisition of Foreign Currency (*Autorización de Adquisición de Divisas - AAD*) of a date preceding the entry into force of EA 35 for imports under the *Tratado Constitutivo del Sistema Unitario de Compensación Regional de Pagos* (SUCRE), or (iii) an ALADI reimbursement code of a date preceding the entry into force of EA 35, will be paid at the rate of exchange of Bs. 6.30 per dollar.

**Foreign currency for imports – food and health sectors.-**

2. After the entry into force of EA 35, the DIPRO rate of exchange will be applied to the acquisition of foreign currency for the importation of the goods determined by the Ministries of Industry and Commerce and of Banking and Finance - with the previous opinion of the Vice-presidency of the Republic and the Venezuelan Central Bank (VCB) - in lists of products and tariff codes of the food and health sectors and raw materials and consumable supplies associated with the production of the same.

**Foreign currency for pensions, health recovery, sports, culture, special cases.-**

3. The DIPRO rate of exchange will be applied to the foreign currency intended for conversion of pensions for old age, retirement, partial disability, incapacity, and survivors paid by the National Institute of Social Security (*Instituto Venezolano de los Seguros Sociales - IVSS*) to persons residing abroad.

4. Also, the DIPRO rate of exchange will be applied to the foreign currency intended for expenses for recovery of health, sports, culture, scientific research, and other cases of special urgency defined in the exchange rules.

#### **Foreign currency for academic activities abroad.-**

5. The DIPRO rate of exchange will be applied to the foreign currency intended for expenses of sustenance, tuition, and student medical insurance for on-site attendance academic activities abroad. This is applicable only to requests that are principal, or successive or complementary to, requests for acquisition of foreign currency already approved or that are issued for the continuity of activities already started and only for the period of time established in the relevant academic offer.

#### **Complementary floating rate of exchange DICOM.-**

6. All transactions of delivery of foreign currency not expressly included in EA 35 will be processed through the alternative foreign currency markets regulated in the exchange rules, at the so-called complementary floating rate of exchange DICOM (*tipo de cambio complementario flotante de mercado - DICOM*).

#### **Consumption and cash for trips abroad.-**

7. The transactions of sale of foreign currency for payment of consumption and advances of cash with credit cards and acquisition of cash for minors, by reason of trips abroad will be applied the DICOM rate of exchange in effect at the time when the transaction is made or when the cash is delivered.

#### **Sale of foreign currency PDVSA, mixed companies. basic industries, and public entities.-**

8. The sale of foreign currency from the exportation and/or sale of hydrocarbons of PDVSA, its affiliates, and mixed companies for oil, gas, and petrochemistry will be made at any of the rates of exchange prescribed in EA 35 reduced by 0.25%, taking into consideration the programming, coordination, and evaluation among the Vice-presidency of Economy, the Ministry for Banking and Finance, and the VCB, according to the policies established and the availability of foreign currency. The purchase of foreign currency by

such entities will be made at any of the rates of exchange prescribed in EA 35, also taking into consideration the aforesaid programming, policies, and availability of foreign currency.

9. The basic industries and public entrepreneurial non-oil-related entities may sell the foreign currency obtained from their productive activity to the VCB at the DICOM rate of exchange reduced by 0.25%.

#### **Sale of export foreign currency.-**

10. The sale of foreign currency from the activities of exportation to the VCB made by natural persons and private legal persons will be made at the DICOM rate of exchange reduced by 0,25%.

#### **Importations at SICAD rate of exchange.-**

11. The transactions for acquisition of foreign currency in which the delivery of the foreign currency was requested from the VCB before the date of entry into force of EA 35 and which qualified for the SICAD rate of exchange will be applied the rate of exchange of the last awarding of foreign currency made through SICAD and published by the VCB.

#### **SIMADI temporary period.-**

12. The SIMADI alternative market of foreign exchange will continue to operate until it is replaced within a period of 30 days after the entry into force of EA 35 and the complementary floating rate of exchange of the market will be that prescribed in article 24 of EA 33, that is, the SIMADI rate of exchange published by the VCB on a daily basis.

#### **Tax obligations, determination and payment.-**

13. After the entry into force of EA 35, the conversion of foreign currency in order to determine the taxable base of tax obligations derived from customs operations will be made at the rate of exchange corresponding to the operation involved or else at the DICOM rate of exchange in effect on the date when the obligation is paid..

14. After the entry into force of EA 35, the tax obligations established in special laws and the rates, commissions, surcharges, and public prices fixed in dollars or another foreign currency by the relevant rules, may be paid alternatively in foreign currency or in its equivalent at the DICOM rate of exchange in effect in the date of the operation.

15. EA 35 expressly repeals: (i) articles 1 and 2 of Exchange Agreement No. 25; (ii) articles 5, 6, 8, and 15 of Exchange Agreement No. 28; (iii) Exchange Agreement No. 29; (iv) Exchange Agreement No. 14; (v) articles 25, 26, 27, 28, 29, 30, and 31 of Exchange Agreement No. 33;(vi) the other provisions that conflict with EA 35.

In order to access EA 35, please click [here](#).

Caracas, March 11, 2016.



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