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Introduction

On January 24, the Bolivarian Republic of Venezuela formalized before the World Bank its irrevocable renunciation of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1966, which created the International Centre for Settlement of Investment Disputes (“ICSID”). According to Article 71 of the ICSID Convention, the renunciation will take effect six months after receipt of Venezuela’s notice, that is, on July 25, 2012. The World Bank, in its capacity as depositary of the ICSID Convention and according to Article 75 of the same, has notified all signatory States of the renunciation of the ICSID Convention by the Bolivarian Republic of Venezuela.

Banking and Finance

Through Official Notice published in Official Gazette of January 10, 2012, the Venezuelan Central Bank established the interest rates for the calculation of the indemnity for seniority (15.55% and 15.03%); the interest rate for the acquisition of vehicles under the “balloon payment” method (15.55%); the interest rates for transactions with credit cards (29% and 17%); and the interest rates for credit transactions intended for the tourism sector (11%).

Exchange Control

Resolution N° 11-11-03 of the Venezuelan Central Bank was published again in the Official Gazette of January 24, due to an error in the original text. Said Resolution establishes the “Rules Relating to the Assumptions and Requirements for Processing Transactions in the System of Transactions with Securities in Foreign Currency (“SITME”) by Legal Persons” dated November 3, 2011. The correction consists in the modification of the last paragraph of letter (b) of article 6. It establishes that if the legal person has filed requests for acquisition of foreign currency or obtained Authorizations for Acquisition of Foreign Currency (AAD) issued by the Foreign Currency Administration Commission (CADIVI) that are still valid and correspond to the same importation for which foreign currency was requested from SITME, the legal person must expressly and in writing waive said requests and/or authorizations, as the case may be, in order to which it has to file the original version of the waiver with the authorized institution, according to the form available on the VCB’s Web page.

Tax

The weighted average interest rate for loans of the six (6) principal commercial and universal banks of the country with the highest volume of deposits, excluding portfolios with prime interest rates, set by the Venezuelan Central Bank for December 2011 is 17.90%, which rate is to be increased 1.2 times

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for the calculation of late payment interest accrued during December 2011, as per Administrative Ruling N° SNAT/2012/0001, issued by the National Integrated Service of Customs and Tax Administration (SENIAT) and published in Official Gazette of January 17.

Administrative Ruling N° SNAT/2012/0084 issued by the SENIAT was published in the Official Gazette of January 25. Said Ruling establishes the conditions for the recovery of wrongful payments. The Ruling establishes that the taxpayers or liable persons interested in recovering what was wrongfully paid on account of taxes, penalties or interest must file the relevant application in the terms and conditions established in the Organic Tax Code, pursuant to the technical specifications established by SENIAT and through the tax web page (www.seniat.gob.ve). The Ruling contains a copy of the application form and the relevant instructions to fill out the same.

A decision of November 28, 2011 of the Constitutional Chamber of the Supreme Tribunal of Justice (“TSJ”) sustained a request for review filed by the attorneys-in-fact of the *Banco Nacional de Vivienda y Hábitat* (“BANAVIH”), and annulled a previous decision of the Political Administrative Chamber of the TSJ. Said decision of the Constitutional Chamber declared the inapplicability of the statutes of limitation to the contributions of the Fund of Mandatory Savings for Housing (*Fondo de Ahorro Obligatorio de Vivienda* - “FAOV”), given that it interpreted that according to the principles of progressive realization and inability to waive workers’ rights and the principle of application of the interpretation that is most favorable to the worker, the FAOV contributions, as part of the housing and habitat provision system and the

social security system, are not within the concept of parafiscal regime and, therefore, are not governed by rules of tax law. Likewise, the Constitutional Chamber established that the decision is extensive to all decisions on the same subject that contradicted the criterion established in the same in relation to the FAOV contributions. The decision was published in Official Gazette of January 30.

Telecommunications

The National Chart of Frequency Band Attribution issued by the National Telecommunications Commission (CONATEL) was published in the Official Gazette of January 31. The purpose of said Chart is to establish the attribution of frequency bands of the radio spectrum and to determine the portions of the same that are capable of being assigned under a concession of use and exploitation and those intended for governmental use. The National Chart of Frequency Band Attribution published in the Official Gazette of December 20, 2006 was repealed.

Insurance and Reinsurance

The Superintendence of the Insurance Activity issued Ruling N° FSAA-D-000111, which corrects Ruling N° FSAA-9-003683, dated December 5, 2011, through which the Rules to Regulate the Alternative Means of Dispute Resolution in the Insurance Activity were issued. The purpose of the Rules is to regulate conciliation and arbitration as alternative means of dispute resolution applied by the Superintendence of the Insurance Activity. The Rules will become effective upon the elapsing of 30 business days after January 31,

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date on which they were published in the Official Gazette.

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Two Administrative Rulings of the National Institute of Civil Aeronautics (*Instituto Nacional de Aeronáutica Civil* -INAC) were published in the Official Gazette of January 5. They contain Venezuelan Aeronautical Regulation 21 (RAV 21) that regulates the procedure for the certification of products and parts and the amendment to Venezuelan Aeronautical Regulation 36 (RAV 36) that regulates the emission of noise by aircraft.

The President of the Republic, through Decree N° 8.769, issued the Regulations to the Decree with the Status, Value, and Force of Law of Creation of Insular Territory Francisco de Miranda, with the purpose of developing the provisions contained in said Decree, which was created in order to promote the organization, government, administration, competence and resources of the Insular Territory Francisco de Miranda, as well as the development of the productive activity and the protection of the

environment and its natural resources. Said Regulations became effective on January 11, date on which they were published in the Official Gazette.

A decision of the Constitutional Chamber of the Supreme Tribunal of Justice was published in the Official Gazette of January 12. Said decision established the criterion on the possibility of appealing arbitral awards. The criterion is binding on the other courts of the Republic and even on the other Chambers of the Supreme Tribunal of Justice, after its publication in the Official Gazette. In this decision, the Chamber established that no express provision exists in the arbitration legislation providing for the possibility of filing cassation appeals against the decisions that annul arbitral awards and that, therefore, it is clear that no such appeals may be filed; it also establishes that no appeal may be filed against arbitral awards with the appellate courts, since the only action that may be brought against them is the action for annulment, otherwise the essence of arbitration as an alternative means to judicial proceedings for dispute resolution would be undermined.

Caracas, February 13, 2012.

*NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER AND ITS CONTENT ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA, ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.