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## TEHAR

### Caracas

Edificio Atlantic, Piso 6,  
Avenida Andrés Bello,  
Los Palos Grandes.

### Maracaibo

Unicentro Virginia, Piso 2,  
Local  
2-12. Avenida 3C con  
esquina calle 67, Sector La  
Lago.

### Valencia

Torre Movilnet, Piso 7,  
Oficina  
No. 3. Avenida Paseo  
Cabriales.

### Puerto la Cruz

Torre Banco Venezolano  
de Crédito (BVC), Piso 6,  
Oficina 6-J, Avenida  
Intercomunal,  
Sector Las Garzas.

### Maturín

Centro Comercial  
Petroriente (CCP), Nivel  
Oficinas 1,  
Oficina 01-N, Ala Norte  
Pasillo Amarillo,  
Avenida Alirio Ugarte  
Pelayo.

## Introduction

The Call to the Offer of Sovereign International Amortizable Bond 2031 for an amount of US\$ 4,200,000,000.00, made by the Ministry of the Popular Power for Planning and Finances on July 26, created great expectations within the entrepreneurial sector. The results of the award were published on August 1. The companies of the National Productive Sector in the fields of food, health, and capital goods received up to a maximum of USD 4,950,000, while the requirements of foreign currency of the companies of other fields were not satisfied.

Also, the discussion of the draft Law for Regularization and Control of Lease of Dwelling Units has become the focus of attention and caused concern among the owners of real property because it will impose significant limitations on the disposition of real property under lease, as well as detailed regulations that are applicable to lease agreements.

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## Energy

PDVSA and the Italian company ENI (Ente Nazionale Idrocarburi) executed an agreement for the construction of an electric power generation plant in the State of Anzoátegui. An investment of US\$ 2,000,000,000 will be made.

Through Resolution N° 091, issued by the Ministry of the Popular Power for Energy and Petroleum and published in the Official Gazette of July 19, 2011, 11,297,627 MMSCF of new proven reserves of gaseous hydrocarbons nationwide were incorporated as of December 31, 2010. The current total proven reserves of gaseous hydrocarbons nationwide, existing at the end of December 31, 2010, are of 195,097,740 MMSCF.

Resolution N° 092, issued by the Ministry of the Popular Power for Energy and Petroleum, was published in Official Gazette of July 21, 2011. Said resolution established the freight for the transportation of motor gasoline and automotive

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diesel fuel from the supply plants owned by Petróleos de Venezuela, S.A. (“PDVSA”) to the service and/or marine stations, as per the distance scale and mountain routes therein included. Resolution N° 092 repealed Resolution N° 003 published in Official Gazette of January 18, 2010 and reprinted in the Official Gazette of March 9, 2010.

### Banking and Finances

With the purpose of fostering the development of the Venezuelan-Russian bank, the Superintendence of Institutions of the Banking Sector (SUDEBAN) authorized a representative of Evrofinans Mosnarbak Commercial Bank in Venezuela.

The rules that regulate the limits of the guarantees granted through bonds by Mutual Guarantee Companies and through secondary bonds by National Funds, issued by the Superintendence of Institutions of the Banking Sector (SUDEBAN), were published in the Official Gazette of July 6, 2011. Such rules will be applicable to the Mutual Guarantee Companies for Small and Medium-sized Enterprises and to the National Funds of Mutual Guarantees. The amounts of the guarantees granted through bonds by Mutual Guarantee Companies for Small and Medium-sized Enterprises and those of secondary bonds granted by the National Funds of Mutual Guarantees may not exceed the amount of five (5) times their patrimony. If at the time when this rule enters into force there are Mutual Guarantee Companies for Small and Medium-sized Enterprises and National Funds of Mutual Guarantees that have bonds or secondary bonds in amounts exceeding five (5) times their patrimony, such bonds must be adjusted to the stated limit within a period of time not exceeding twelve (12) months as from the date of entry into force of this Resolution.

SUDEBAN also issued the rules that regulate the opening, moving or closing of agencies, offices, branches, and business centers and the installation and closing of external counters, associated counters, information desks, automatic or electronic teller machines and other means of attention to clients and users in the national territory of universal banks, micro financing banks, exchange offices and border exchange operators subject to the control of SUDEBAN. These rules establish the duty to request an authorization from SUDEBAN for the establishment, closing, or moving of bank agencies, offices or branches.

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Decreets Nos. 8.322, 8.323, 8.324, 8.325, 8.326, and 8.327, issued by the President of the Republic were published in Official Gazette of July, 12, 2011. Through said Decreets, Public Debts Bonds were issued for up to the total amount of Bs. 45,000,000,000, which will be used for Financing the Gran Misión Agro-Venezuela, Emergencies and Natural Disasters, Gran Misión Trabajo Venezuela, Gran Misión Vivienda Venezuela, Refinancing or Restructuring of Public Debt, and financing of Public Debt Service.

The Venezuelan Central Bank (“VCB”), established through a Resolution published in the Official Gazette dated July 13, that banking institutions may

only charge commissions, rates or surcharges within the maximum limits and on account of the items prescribed by the VCB through resolutions and official notices issued on the subject. This Resolution became effective on July 14, 2011 and it expressly repeals Resolution N° 10-11-01, published in Official Gazette of November 23, 2010. Also, an official notice issued by the VCB was published in the aforesaid Official Gazette of July 13, 2011, which notice establishes the maximum limits of the commissions, rates, and/or surcharges that bank institutions may charge to their clients or to the general public for the activities and operations mentioned in the same.

The Partial Amendment to the Regulations of the Electronic Clearing House System was issued through Resolution N° 11-07-02 of the VCB, published in Official Gazette of July 14, 2011. The principal changes made consist in the amendment to articles 29 and 60, referred to the storage and protection of the physical condition of the checks until they are delivered to the bank, and to the general terms and conditions according to which the Participating Bank Institutions that present a check to be cashed must make delivery of the checks cleared and paid to the bank.

SUDEBAN established, through a Resolution, the general criteria and information requirements allowing to determine the moral and ethical quality required from the persons designated to hold positions of directors, presidents, vice-presidents, legal, administrative or managerial representatives – among other positions – of bank institutions. This Resolution was published in Official Gazette of July 15.

Through Official Notice of the VCB published in the Official Gazette of July 12, 2011, the Venezuelan Central Bank established the: interest rates for the calculation of the indemnity for seniority (17.41%); the interest rate for the acquisition of vehicles under the “balloon payment” method (17.41%); the interest

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rates for transactions with credit cards (29% and 17%); and the interest rates for credit transactions intended for the tourism sector (12%).

Resolution N° 11-06-01, issued by the VCB and originally published in Official Gazette of June 30, 2011, was corrected. Said correction, published in Official Gazette of July 11, 2011, reduces by three percentage points the reserve requirement percentage rates of the banking institutions that acquire government bonds related to the social program Gran Misión Vivienda Venezuela. The institutions that do not participate in that social program must maintain a deposit in the VCB of an additional reserve requirement equivalent to six percentage

points as from July 18, 2011. Resolution N° 11-06-01 became effective on July 1, 2011.

The Ministry of the Popular Power for Housing and Habitat established the financing conditions that will govern the granting of credits for the acquisition of principal family housing with resources of the financial institutions and with resources derived from funds regulated by the Regime for Provision of Housing and Habitat. These conditions are established in a Resolution published in the Official Gazette of July 19.

Resolution N° 104, issued by the Ministry of the Popular Power for Housing and Habitat, was also published in the Official Gazette of July 19, 2011. Said Resolution fixes at 12% the minimum percentage of the annual gross portfolio that the banking institutions must dedicate from their own resources to mortgage credits for the construction, acquisition, enlargement, improvement and self-construction of principal family dwellings. Two percent points of said percentage must be used for the mortgage credits intended for construction of dwelling units and the other 10% must be used as follows: 1) not less than 50% for mortgage credits for construction of dwelling units; 2) not less than 40% for mortgage credits for acquisition of principal family dwelling units, and 3) not less than 10% for enlargement, improvement or self-construction of principal family dwellings. Resolution N° 104 repeals Resolution N° 063, published in Official Gazette of May 2, 2011, as well as any other resolution conflicting with the same.

Joint Resolution N° MPCPS/072 and MPPPF/3.054 of the Ministry of the Popular Power for Communes and Social Protection and the Ministry of the Popular Power for Planning and Finances was published in Official Gazette of July 29, 2011. Said Resolution establishes the mechanisms for allocation of resources to be implemented by banking institutions to finance the projects of the communal councils or other forms of social organization. The Joint Resolution indicates that bank institutions must contribute the equivalent

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to five percent (5%) of the “Gross Result before Tax” to the Ministry of the Popular Power for Communes and Social Protection, through the Autonomous Service of National Fund of Communal Councils (“SAFONACC”), on a half-yearly basis and within thirty (30) days following the date of ending of the half-yearly economic period.

## Tax

The National Integrated Service of Customs and Tax Administration (SENIAT), established the duty of natural and legal persons and unincorporated bodies to file sworn statements of investments made during fiscal year 2010, as well as the investments to be made during fiscal year 2011. The technical specifications for the presentation of the sworn statements will be available through SENIAT’s Web Page. Failure to comply with the duties established in the Ruling may entail the application of the penalties prescribed in the Organic Tax Code.

SENIAT’s Ruling N° SNAT/2011/0046 was published in Official Gazette of July 14, 2011. Said Ruling establishes that 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 rates, set by the Venezuelan Central Bank for June 2011 is 19.91%, which rate is to be increased 1.2 times for the calculation of late payment interest accrued during June 2011.

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## Labor

Decree N° 8.300, issued by the President of the Republic, was published in Official Gazette of July 1, 2011, Extraordinary. Said Decree declared the 4th of July of year 2011 as a non-business day and considered said day as a holiday for the purposes of the Organic Labor Law, for both public and private sectors. The Decree excluded from its application the activities that may not be interrupted indicated in article 213 of the Organic Labor Law for reasons of public interest, for technical reasons or for eventual circumstances, as well as the activities listed in articles 92 (public interest), 93 (technical reasons), and 94 (eventual circumstances) of the Regulations to the Organic Labor Law.

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The Partial Amendment to the Regulations to the Law on Nutrition of Workers was published in Official Gazette of July 14, 2011. The principal changes contained in the same are the following: 1) The former title of the same, Regulations to the Law of Nutrition of Workers, was changed for Regulations to the Law of Nutrition of Male and Female Workers; 2) In Article 14, the reference to “20 workers or more”, was deleted, since all employers, regardless of the number of workers that they employ, will have the obligation to provide the benefit established in the Law; 3) Article 15 was amended to indicate that the benefit may be extended through collective bargaining agreements, collective agreements or individual employment agreements, or in a voluntary

manner to male and female workers who earn a salary higher than that indicated as a limit in Paragraph Second of article 2 of the Law; 4) Article 19 was deleted. Said article read as follows: “when the benefit is granted through the provision or delivery to the male or female worker of coupons, tickets, or electronic nutrition cards, failure by the male or female worker to render the service for reasons non-attributable to him/her will not be a cause to suspend the granting of the benefit corresponding to such period of work”; 5) Article 29 was included. It reads as follows: “When the granting of the nutrition benefit is implemented through the payment of money in cash or its equivalent, in the cases prescribed in the law, such payment must be made within five (5) days following the end of the relevant month”; 6) Article 30 was included. It reads as follows: “The employer must deliver to the male or female worker on a monthly basis a receipt that evidences the compliance with the nutrition benefit through the payment of money in cash or its equivalent, in order to differentiate the same from payments on account of salary”. The articles referred to the forms of compliance with the benefit now include that the benefit may be provided by paying the worker in cash.

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## Consumer Protection

The Decree with the Status, Value and Force of Law on Fair Costs and Prices was published in the Official Gazette of July 18, 2011. The purpose of the Decree is to establish the regulations and the control and administration mechanisms necessary to maintain price stability and to facilitate access to goods and services by all the population under equal conditions. The Decree provides for the creation of the National Superintendence of Goods and Services, through which the costs of goods and services will be periodically reviewed. This entity will fix the Maximum Sales Prices to the Public (PMVP) or ranges of prices of goods and services according to their economic significance or strategic nature.

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The natural or legal persons that manufacture import or commercialize goods and render services will be under the obligation to be registered with the National Registry of Prices of Goods and Services and to maintain all of their data updated. This Decree will enter into force upon the end of the period of ninety (90) working days following its publication in the Official Gazette, that is, on November 22, 2011.

### Securities Market

The National Securities Superintendence issued the rules relating to the rates and contributions to be paid by the persons subject to its control. The purpose of said rules is to fix a special annual contribution intended for financing, payment of maintenance, improvement of technical services, arbitrators' fees, and other operations of the Superintendence and for the professional and academic development of the personnel in the terms indicated in the same. The special contribution must be paid within the first fifteen (15) business days of the month following the end of the calendar year for which the contribution is made.

### Miscellaneous

Resolution N° 110623-0123, issued by the National Electoral Council (Consejo Nacional Electoral – CNE), was published in Official Gazette of July 15, 2011. Said Resolution contains the Rules for Transferring the Public Service of Civil Registry to the Electoral Branch of Government. The purpose of said resolution is to rule the bases for the transfer of the Public Service of Public Registry currently provided by the States, Municipalities, and other legal persons of public law to the Electoral Branch of Government

The Superintendence of Electronic Certification Services (“SUCERTE”) created the Authority of Certification of Time Stamping which sole purpose is to sign the certificates for the providers of time stamping services in order for them to issue the Electronic Time Stamps that guarantee the date and legal time in electronic documents and transactions.

Joint Resolution DM/N° 053, of the Ministry of the Popular Power for Education, and DM/N° 083, of the Ministry of the Popular Power for Commerce was published in the Official Gazette of July 22, 2011. Said

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Resolution established that the increase of the tuition for school year 2011-2012 and of the school monthly payments of private institutions of the national territory that are part of the Basic Education may not exceed 22%. Joint Resolution DM/N° 046 of the Ministry of the Popular Power for Education and DM/N° 057 of the Ministry of the Popular Power for Commerce, published in Official Gazette of July 7, 2010, is repealed.

Caracas, August 10, 2011.

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NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER, AND ITS CONTENTS 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.

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