

## Banking and Finance

**T**hrough official notice published in the Official Gazette of July 10, the Venezuelan Central Bank (VCB) established the interest rates for the calculation of the indemnity for seniority (16.25% and 15.38%); the interest rate for the acquisition of vehicles under the “balloon payment” method (16.25%); the interest rates for transactions with credit cards (29% and 17%); and the interest rates for credit transactions intended for the tourism sector (11%).

Joint Resolution No. 055/2012 and 3235, issued by the Ministries of the Popular Power for Agriculture and Lands and for Planning and Finance, establishes the special terms and conditions to be applied by the public and private Universal and Commercial Banking Sectors that are in the process of transformation for the restructuring and remission of agrarian debts ordered by the Decree with the Status, Value and Force of Law of Attention to the Agrarian Sector. In this connection, the Joint Resolution establishes the guidelines and conditions for (i) breakdown of the debt to be restructured in the cases of overdue and current credits; (ii) breakdown of the debt to be remitted in the cases of total and partial loss and (iii) financing in the cases of credits granted for other uses related to the agrarian sector. This Resolution repeals the Joint Resolution issued by the Ministries of the Popular Power for Agriculture and Lands and for Planning and Finance published in Official Gazette of March 2, 2011. The Resolution was published in the

Official Gazette of July 2, 2012, date on which it became effective.

Resolution No. 12-04-01, issued by the VCB, was published in the Official Gazette of July 17. Said Resolution establishes the rules that will govern the services of registration, placement, custody, and payment of dematerialized securities that may be provided by the VCB to public juridical persons other than the Republic, associated with the issue by said juridical persons of dematerialized securities denominated in Bolívars. The Resolution became effective on April 30, 2012.

The Ministry of the Popular Power for Housing and Habitat issued Resolutions Nos. 153 and 154, whereby it established the financing conditions that will govern the granting of credits for acquisition, self-construction, enlargement and/or improvement of principal family-dwelling units with resources from (i) the Mandatory Credit Portfolio for housing to be annually met by the Institutions of the Banking Sector, and (ii) the Funds regulated by the Decree with the Status, Value, and Force of Law on Housing and Habitat Provision Regime and with resources from the funds to that end created, administered, or specified by the Highest Entity of the Housing and Habitat National System. Resolution No. 153 expressly repeals Resolutions Nos. 103 and 121, published in Official Gazettes dated August 2 and 3, 2011, respectively. The Resolutions became effective on July 20, date of their publication in the Official Gazette.

## Tax

**T**he National Institute of Sports issued Administrative Ruling No. 071/2012, through which it **grants a single period of time up to August 31, 2012, for filing the estimated return** and making the **relevant payment** to the National Fund for Development of Sports, Physical Activity, and Physical Education, to all payers subject to such obligation, **always provided that** their fiscal years ended no later than **December 31, 2011**. The Ruling became effective on July 13, date of its publication in the Official Gazette.

The National Integrated Service of Customs and Tax Administration ("SENIAT") issued Ruling No. SNAT/2012/0040, which was published in the Official Gazette of July 13 and established 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 VCB for June 2012, is 17.73%. Said rate is to be increased 1.2 times for the calculation of late payment interest accrued during June 2012.

Decision No. 835 of the Constitutional Chamber, dated June 19, 2012, was published in Official Gazette of July 12. Said decision states that "professional practice has a civil nature given that from a pecuniary standpoint, such practice does not generate a salary (...), or economic benefits (...), but the profitable compensation of the same is found in the provision of a professional service". The Decision also states that **Activity Codes 457 and 459 of Group 8322** of the Economic Activity Classifier of the Ordinance on Economic Activities of Industry, Commerce, Services or Similar Activities of the Iribarren Municipality of the State of Lara **are**

**unconstitutional**. Therefore, the Decision **declares the unconstitutionality of and annuls definitions 457 and 459 contained in Annex No. 2** to the Ordinance on Economic Activities of Industry, Commerce, Services or Similar Activities of the Iribarren Municipality of the State of Lara.

## Exchange Control

**E**xchange Agreement No. 20 of the VCB was published in Official Gazette of July 19. Said Agreement establishes that **the legal persons not domiciled in the national territory** that participate in the execution of strategic projects of public investment for the development of national economy and encouragement of productive offering **may hold funds in foreign currency**, in call deposit accounts or time deposit accounts, with universal banks governed by the Decree with the Status, Value, and Force of Law of Partial Amendment to the Law of Institutions of the Banking Sector ("LIBS"). Said deposits may be operated through total or partial withdrawals in legal currency, at the current exchange rate, or through transfers or checks of the payor bank against its correspondent banks abroad. It is also established that the **natural persons** of legal age domiciled in the national territory and the **legal persons domiciled** in the country **may hold**, in call deposit accounts or time deposit accounts with universal banks governed by the LIBS, **funds in foreign currency** derived, among other lawful funds, from the payment of securities denominated in foreign currency issued by the Bolivarian Republic of Venezuela and its decentralized entities, or by any other entity, acquired through the System of Primary Placement of Securities in Foreign Currency (*Sistema de Colocación Primaria de Títulos en Moneda Extranjera* - "SICOTME") or the

System of Transactions with Securities in Foreign Currency (*Sistema de Transacciones con Títulos en Moneda Extranjera* - "SITME"), administered by the VCB. **The deposits in foreign currency may be operated** through total or partial withdrawals in legal currency, at the current rate of exchange, or through transfers or checks of the depository payor bank against its correspondent banks abroad, as well as through debit instructions for payment of expenses of consumption and withdrawals made with cards abroad. **The bank institutions** authorized to receive said deposits **must keep them in accounts in foreign currency with the VCB**, according to the current regulations. Likewise, said institutions **shall be bound to send to the VCB**, on a monthly basis, detailed information about the funds held in foreign currency. Finally, Agreement No. 20 establishes that the **State-owned companies** that obtain foreign currency from export activities **may use up to five percent (5%)** of the average monthly balance held in accounts in foreign currency, authorized by the Board of Directors of the VCB, for the **acquisition of securities issued in foreign currency** by the Republic or its decentralized entities, for purposes of being negotiated in Bolívars through the SITME. The Agreement became effective on the date of its publication in the Official Gazette.

### Insurance and Reinsurance

**T**he Superintendence of the Insurance Activity issued Ruling No. FSAA-D-001781, whereby it issued the rules that establish the obligations that may be undertaken by insurance and reinsurance companies when taking out insurance, reinsurance, bonds or additional guaranties in foreign currency. The Ruling **establishes a list of obligations that insurance companies may undertake in**

**foreign currency** when taking out insurance or bonds. In addition, it establishes that national reinsurance companies **may only reassure or provide additional guaranties in foreign currency** in the cases of obligations undertaken by the insurance companies established in the Ruling. National reinsurance companies **may reinsure in foreign currency any obligation** from insurance or reinsurance companies not domiciled in the country. The Ruling became effective on July 4, date of its publication in the Official Gazette.

### Miscellaneous

#### Medicine Control Integral System

**A** Joint Resolution of the Ministries of the Popular Power for Health, for Commerce, for Science, Technology and Innovation, and for Nourishment was published in Official Gazette of July 25, 2012. Said Resolution implements the Medicine Control Integral System (*Sistema Integral de Control de Medicamentos* - SICM) and **establishes the guidelines and criteria to govern** the requirements, conditions, process, format, issue, and registration of the **Single Guide for transportation, monitoring, and control of medicines and other pharmaceutical products** intended for commercialization and distribution in the national territory. If activities of the aforesaid nature are performed without the relevant Single Guide, the competent health authority will establish **penalties**. This Resolution became effective upon its publication in the Official Gazette. The military authorities **shall refrain from requiring** said Guide for a period of thirty (30) business days - extendible - after the publication of the Resolution in the Official Gazette. Finally, the Resolution **repeals** the Joint Resolution issued by the Ministries of

the Popular Power for Health, for Commerce, for Science, Technology, and Innovation, and for Nourishment, published in the Official Gazette of May 25, 2012.

### **Free sale and consumption of food and beverages**

Resolution No. 087 of the Ministry of the Popular Power for Health was published in the Official Gazette of July 13. The Resolution authorizes **the free sale and consumption** in the national territory **of the food and beverages** established in the Resolution with indication of their corresponding health registry numbers. The Resolution became effective upon its publication in the Official Gazette.

### **Adjustment of tuition fees and school monthly payments**

The Ministry of the Popular Power for Education issued Resolution No. 46, whereby it establishes an adjustment of the tuition fees and school monthly payments for year 2012-2013, in a percentage that may **not exceed** a maximum increase **of ten percent (10%)**. **The adjustment is applicable to all private educational institutions** of the Basic Education Subsystem, located in the national territory. The Resolution establishes that the **increases in tuition fees or monthly payments** approved in contravention of the provisions of the Resolution are **annulled**. Joint Resolutions Nos. 045-058 y 063-083, issued by the Ministries of the Popular Power for Education and for Commerce, published in Official Gazettes of July 7, 2012 and July 22, 2011, respectively were revoked. The Resolution became effective on July 30, date of its publication in the Official Gazette.

Caracas, August 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.