

Energy and Petroleum
Banking and Finance

Tax
Exchange Control

Insurance and Reinsurance
Miscellaneous

A Presidential Decree declared the State of Emergency (including Economic Emergency) in all of the national territory. (Official Gazette No. 6.424 Extraordinary of 01/11/2019. Decree No. 3.736. Entry into force: Upon publication in the Official Gazette).

Energy and Petroleum

The Ministry of the Popular Power for Petroleum resolved to delimit the geographical area the reserves of which support and facilitate access to financial and monetary mechanisms and instruments for the Bolivarian Republic of Venezuela by the Venezuelan Central Bank, in the potential development of 29,298 MMBN of heavy and extra-heavy Oil Originally in Place (OOIP), according to an international independent certifying company, located in the Orinoco Oil Belt Hugo Chávez Frías, Municipalities of Miranda and Monagas of the State of Anzoategui. (Official Gazette of 01/21/2019. Resolution No. 002. Entry into force: Upon publication in the Official Gazette).

Banking and Finance

The Venezuelan Central Bank (VCB) established the interest rates applicable to the obligations derived from employment relationships (21.84% and 18.42%), to transactions with credit cards (29.00% and 17.00%, January 2019 and 40% and 17% February 2019), and to credit transactions intended for the tourism sector (6.70%, January

2019 and 15%, February 2019). (Official Gazette of 01/08/2019 and 01/30/2019. Official Notice. Entry into force: Upon publication in the Official Gazette).

The VCB issued a Resolution that establishes that the microfinancial and universal banks governed by the Decree with the Status, Value, and Force of Law of Institutions of the Banking Sector, as well as the commercial banks in the process of transformation according to the applicable rules, must keep a special reserve requirement, in addition to the regular reserve that they have to form according to Resolution No. 19-01-01 of 01/08/2019, determined as indicated in the Resolution. (Official Gazette of 01/09/2019. Resolution No. 19-01-02. It repeals Resolution No. 18-11-03, published in Official Gazette of 11/30/2018. Entry into force: For purposes of the formation of the special reserve requirement prescribed in the Resolution as from 01/14/2019).

The Ministry of the Popular Power for Economy and Finance issued the Rules Relating to the Administration and Monitoring of the Risks Related to Money Laundering, Terrorism Financing, and Financing of Proliferation of Weapons of Mass Destruction Applicable to the Institutions of the Banking Sector. (Official Gazette of 01/17/2019. Resolution No. 083.18. Entry into force: Upon publication in the Official Gazette).

Through an Official Notice, the VCB informed the bank institutions, currency exchange offices, and non-banking providers of point-of-sale terminals about the maximum limits of the commissions, rates, and/or surcharges that they

Firm

Areas of Practice

Members

Offices

Energy and Petroleum
Banking and Finance

Tax
Exchange Control

Insurance and Reinsurance
Miscellaneous

may charge for the operations and activities indicated in said Official Notice. Said Notice substitutes for the one issued by the VCB on 10/16/2018, published in Official Gazette of 11/09/2018. (Official Gazette of 01/28/2019. Official Notice. Entry into force: As from the fifth (5th) business day following its publication in the Official Gazette).

The VCB issued the Rules that will govern the Formation of the Legal Reserve. (Official Gazette of 01/28/2019. Resolution No. 19-01-05. It repeals Resolution No. 19-01-01, published in Official Gazette of 01/09/2019. Entry into force: For purposes of the determination of the reserve to be formed on 02/11/2019).

The VCB resolved that, except in the case of credit transactions intended for the manufacturing sector, the bank institutions governed by the Decree with the Status, Value, and Force of Law of the Institutions of the Banking Sector may not charge for its credit transactions, excluding those related to credit cards, an annual interest rate or discount rate exceeding the rate periodically fixed by the Board of Directors of the VCB for the discount, rediscount, repurchase agreement, and advance payment operations of the VCB, according to Resolution No. 09-06-01 of 06/04/2009, reduced by five percentage (5) points. (Official Gazette of 01/30/2019. Resolution No. 19-01-06. It repeals Resolution No. 13-07-03, published in Official Gazette of 07/30/2013 and Resolution No. 13-11-02, published in Official Gazette of 12/12/2013. Entry into force: As from 02/01/2019).

The VCB, through an Official Notice, informed the general public that as from February 2019, the maximum rate applicable to mortgage credits

granted and to be granted for acquisition, construction, auto-construction, improvement, and enlargement of principal housing units is fixed at 12,66%. The special social interest rates contained in numbers 2) and 4) of the Official Notice issued by the VCB and published in Official Gazette of 03/26/2013 continue to be valid only for the mortgage credits granted before the publication of said Official Notice. (Official Gazette of 01/30/2019. Official Notice).

The National Constituent Assembly issued the Constituent Decree on the Integral System of Cryptoassets. Said Decree established the regulatory framework applicable to the Integral System of Cryptoassets. The sphere of application of the Decree includes the goods, services, securities or activities related to the constitution, issue, organization, operation, and use of cryptoassets and sovereign cryptoassets in the national territory, as well as the purchase, sale, use, distribution, and exchange of any product or service derived from the same and any connected activities. (Official Gazette of 01/30/2019. Constituent Decree. Entry into force: Upon publication in the Official Gazette).

Tax

The National Integrated Service of Customs and Tax Administration (*Servicio Nacional Integrado de Administración Aduanera y Tributaria* - SENIAT) established the rate applicable to the calculation of late payment interest accrued during November 2018. It was 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 November 2018 is 23.98%, which rate

Firm

Areas of Practice

Members

Offices

Energy and Petroleum
Banking and Finance

Tax
Exchange Control

Insurance and Reinsurance
Miscellaneous

is to be increased 1.2 times for the calculation of late payment interest accrued during November 2018. (Official Gazette of 01/17/2019. Administrative Ruling No. SNAT/2019/0009).

The Ministry of the Popular Power for Planning and the Ministry of the Popular Power for Economy and Finance fixed at Three Hundred and Fifty Sovereign Bolivars (Bs.S. 350.00) the Unit for Arithmetical Calculation of the Maximum and Minimum Threshold (*Unidad para el Cálculo Aritmético del Umbral Máximo y Mínimo* – “UCAU”). (Official Gazette of 01/18/2019. Joint Resolution No. 001/2019 and No. 004/2019. Entry into force: 01/21/2019).

Exchange Control

Resolution No. 19-01-04, issued by the VCB, was published in Official Gazette No. 41.573 of 01/28/2019. Said Resolution established that the VCB may automatically make transactions of sale of foreign currency with universal and microfinancial banks governed by the Law of Institutions of the Banking Sector and by special laws, by debiting from the single account held by the respective banking institutions with the VCB the amount of Bolivars equivalent to the exchange transaction made. In our web page you will find a summary of said Resolution.

The VCB established that the holders of more than one account in foreign currency held with the National Financial System (“NFS”) may make transfers among said accounts; and transfers may be made among accounts in foreign currency held with the NFS in the cases of accounts that belong to holders other than that

from whose account the transfer order originates. (Official Gazette of 01/30/2019. Official Notice).

Insurance and Reinsurance

The Superintendence of the Insurance Activity established the Rules that Regulate the Presentation of Analytical Financial Statements on a Monthly Basis, Annual Basis and at the End of the Legal General Inspection by the Insurance Companies Authorized to Operate in Venezuela. The purpose of said rules is to establish the requirements that the analytical financial statements on a monthly basis, annual basis, and at the end of the legal general inspection must contain, as well as the mechanisms for their presentation by the regulated entities authorized to operate as insurance companies. (Official Gazette of 01/03/2019. Administrative Ruling No. FSAA-DL-2-00454. It repeals Ruling No. 000747, published in Official Gazette of 04/25/2013. Entry into force: As from the notification of the content of the administrative act to the regulated entities).

Miscellaneous

A decision issued by the Constitutional Chamber of the Supreme Tribunal of Justice declared the partial annulment on grounds of unconstitutionality of the part *in fine* of article 318 of the Code of Civil Procedure, since said article is contrary to the principles of celerity and procedural economy contained in articles 26 and 257 of the National Constitution. Then, the phases of replication and rejoinder after the publication of the decision are removed from the cassation procedure and the

Firm

Areas of Practice

Members

Offices

Energy and Petroleum
Banking and Finance

Tax
Exchange Control

Insurance and Reinsurance
Miscellaneous

implementation of the oral hearing of cassation is ordered (upon the request from a party or upon the Civil Cassation Chamber's own initiative).

(Official Gazette of 01/24/2019. Decision No. 0883).

Caracas, February 28, 2019.

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.