

Banking and Finance

Resolution No. 12-09-02 was issued by the Venezuelan Central (“VCB”). Said Resolution establishes that the **bank institutions may charge** commissions, fees, and/or surcharges for the items and up to the maximum limits set by the VCB and this Resolution. The VCB may review and modify, when it deems it convenient, the items and maximum limits established in the Resolution. Notwithstanding the foregoing, the bank institutions may request from the VCB an increase in the commissions, fees, and/or surcharges, as well as the incorporation of new items for which charging such commissions, fees, and/or surcharges may be possible. The Resolution was published in the Official Gazette of September 6 and it **repeals** Resolution No. 11-07-01, published in the Official Gazette of July 13, 2011. An Official Notice establishing that the Resolution would become effective on September 17, 2012 was published in the Official Gazette of September 10.

Based on Resolution No. 12-09-02 mentioned above, the VCB issued an Official Notice, published in the Official Gazette of September 6, whereby it informed that after September 17, 2012, the **bank institutions may charge** commissions, fees, and/or surcharges for the operations and activities and up to the maximum limits mentioned in said Notice.

The Superintendence of the Institutions of the Banking Sector issued Resolution No. 102.12, whereby it establishes the instructions relating to the payment of the installment of the contribution to be made by the institutions subject to the

supervision and control of the Superintendence, as well as by the banks subject to special laws. The Superintendence will **notify each contributing institution of the amount of the installment** of the contribution to be monthly paid **during the relevant semester.** The contribution must be paid at a rate of one sixth (1/6) of the resulting half-yearly amount, within the first five (5) bank business days of each month. The Resolution was published in the Official Gazette of September 11 and became effective since July 1, 2012. The Resolution expressly **repeals** Resolution No. 326.11, published in the Official Gazette of December 15, 2011.

Through Official Notice published in the Official Gazette of September 11, the VCB established the interest rates for the calculation of the indemnity for seniority (16.51% and 15.57%); the interest rate for the acquisition of vehicles under the “balloon payment” method (16.51%); the interest rates for transactions with credit cards (29% and 17%); and the interest rates for credit transactions intended for the tourism sector (11%).

The Superintendence of the Institutions of the Banking Sector issued Resolution No. 150-12, whereby it resolved to modify the accounting manual for banks, other financial institutions, and savings and loan associations. The Resolution was published in the Official Gazette of September 17 and the changes contained in the Resolution became effective as from said date.

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Tax

Resolution No. 3248 of the Ministry of the Popular Power for Planning and Finance was published in Official Gazette of September 3. Through said Resolution it is resolved to proceed with the first issue in year 2012 of the Special Tax Refund Certificates (*Certificados Especiales de Reintegro Tributario* - "CERT"), in the amount of Eight Hundred Million Bolivars (Bs. 800,000,000.00). The CERTs are **intended for refunding the fiscal credits derived from the Value Added Tax ("VAT")** borne and actually paid by reason of the export activity and those borne by reason of the acquisition of capital goods and receipt of services during the execution of the pre-operative phase regime by the exporters, according to the relevant Administrative Rulings issued by the National Integrated Service of Customs and Tax Administration ("SENIAT"), in favor of the beneficiaries. The Resolution became effective upon its publication in the Official Gazette.

The SENIAT issued Ruling No. SNAT/2012/0045, which provides for the rate applicable to the calculation of late payment interest corresponding to the month of August 2012. The Ruling establishes that the weighted average interest rate on loans of the six (6) principal commercial and universal banks of the country with the highest volume of deposits, excluding the portfolios with prime rates, set by the VCB for August 2012 is 18.36%, which rate is to be increased 1.2 times for the calculation of late payment interest accrued during August 2012. The Ruling was published in Official Gazette of September 18, 2012.

Exchange Control

Ruling No. 111 issued by the Foreign Currency Administration Commission ("CADIVI"), that establishes the Requirements and Formalities for Export Transactions, was published in Official Gazette of September 4. The Ruling **regulates the requirements and formalities** to be met by exporters in order **to record the exportation** of goods, services, and technology and to **demonstrate the sale of foreign currency** to the VCB, when the transaction represents the receipt of foreign currency by the user. The users must record the exportation as from the fifth (5th) business day following the date when the export was made or when the customs declaration was filed with the competent customs authority, as applicable. Also, the Ruling establishes the obligation to sell to the VCB the foreign currency resulting from (i) exportation of goods, services, or technology, (ii) lease, services, or other rights derived from the goods under regime of temporary exportation, and (iii) temporary exportation or temporary exportation for passive processing of goods, when the period of time authorized for the goods to re-enter the country elapses without such re-entry having occurred. Ruling No. 101, which established the requirements and formalities for export transactions, published in Official Gazette of January 15, 2010, was **repealed**. However, the demonstration of the sale of foreign currency resulting from export transactions performed during the period of legal effectiveness of Ruling No. 101 will be governed by the provisions of Ruling No. 101. Ruling No. 111 became effective upon its publication in the Official Gazette.

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An Official Notice of the VCB was published in the Official Gazette of September 6. Through said Notice, Exchange Agreement No. 20, published in the Official Gazette of July 19, 2012, was published again due to an error in the original text. Said new publication **partially modified article 2** of the Agreement in order to establish that call deposit accounts or time deposit accounts may hold funds in foreign currency derived from (i) lawful transactions that according to the foreign exchange regulations allow the holders of the accounts to keep and/or administer such foreign currency, or (ii) transactions authorized by the Board of Directors of the VCB through rules issued to that end. The amendment to the Agreement became effective upon its publication in the Official Gazette.

The VCB issued Resolution No. 12-09-01, whereby the rules that will govern the accounts in foreign currency in the National Financial System are issued. The Resolution provides that **legal entities not domiciled** in the Bolivarian Republic of Venezuela that participate in the execution of projects of public investment and projects of general interest, **may hold, in accounts** with universal banks, deposits of **funds in foreign currency** necessarily from abroad, received through transfers ordered to that end. Likewise, **individuals** of legal age, domiciled in the national territory, **and legal entities domiciled in the country, may hold, in accounts** with universal banks, **deposits in foreign currency** derived from the liquidation 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 through

the System of Transactions with Securities in Foreign Currency (*Sistema de Transacciones con Títulos en Moneda Extranjera* - "SITME"), and from other transactions of a lawful character that, according to the rules governing foreign exchange matters, allow them to keep and/or administer said foreign currency. The Resolution imposes on the universal banks the obligation to provide the VCB with monthly information about the received deposits in foreign currency, as well as daily information about the global operations and balances of the accounts in foreign currency, pursuant to the instructions and circulars issued to that end. The Resolution was published in the Official Gazette of September 6 and became effective on September 17, 2012.

Insurance and Reinsurance

The Ministry of the Popular Power for Planning and Finance issued Resolution No. 3254, whereby it **set the amount of the contribution** that the insurance and reinsurance companies, the companies engaged in prepaid medicine activities, and the legal entities that finance premiums are **bound to make during economic year 2013**, in order to finance the operation of the Superintendence of the Insurance Activity. The Resolution was published in the Official Gazette of September 25.

Miscellaneous

Extension of the period of time for the Single Guide for Transportation, Monitoring, and Control of Medicines

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Resolution No. 055-12 issued by the Ministry of the Popular Power for Nourishment was published in the Official Gazette of September 5, 2012. The Resolution **extends for thirty (30) business days** the period of time during which the military authorities must refrain from requiring the Single Guide for Transportation, Monitoring, and Control of Medicines intended for commercialization and distribution in the national territory, established in the Sole Paragraph of article 16 of the Joint Resolution of the Ministries of the Popular Power for Health, for Commerce, for Science, Technology, and Innovation, and for Nourishment, published in Official Gazette No. 39,971 of July 25, 2012, whereby the Integral System of Control of Medicines (*Sistema Integral de Control de Medicamentos* – “SICM”) was implemented and

the guidelines and criteria to govern the issue of the Single Guide for Transportation, Monitoring, and Control of Medicines, intended for commercialization and distribution in the national territory, were established. The Resolution became effective upon its publication in the Official Gazette.

News of the Firm

We are pleased to announce the hiring of eight new attorneys: Eugenio De Bellard, María Mercedes Blanco, Christina Barrios, Samantha Contreras, María de los Ángeles Arrieta, Rusbel Nóbrega, Hilda Piñate, and Miguel Angel Santelmo.

Caracas, October 22, 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.