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## Introduction

Below is our Newsletter for the months of March and April 2013.

## Energy and Petroleum

**P**residential Decree No. 9 was published in the Official Gazette of April 22. The Decree declares a state of emergency of the National Electric System for a period of ninety (90) days that may be extended for an equal period of time. The National Electric Company (*Corporación Eléctrica Nacional* - “CORPOELEC”) is conferred the power to **enter into agreements with national and foreign suppliers** for the contracting and execution of works and acquisition of goods and services. The Decree became effective upon its publication in the Official Gazette.

The Ministry of the Popular Power for Petroleum and Mining issued Resolution No. 031, whereby the rules for registration with the **National Registry of Petrochemical Companies** were issued. The purpose of the Resolution is to establish the registration, verification, certification, inspection, and supervision requirements and procedures related to the National Registry of Petrochemical Companies, with which the natural or legal persons performing or seeking to perform petrochemical activities, as well as the petrochemical projects, must be registered. The Resolution became effective on April 24, date on which it was published in the Official Gazette.

## Banking and Finance

**A**n Official Notice issued by the Venezuelan Central Bank (“VCB”) was published in the Official Gazette of March 12. It establishes the **interest rates** applicable to obligations

derived from employment relationships (16.43% and 15.47%); to the acquisition of vehicles under the “balloon payment” method (16,43%); to transactions with credit cards (29% and 17%); and to the credit transactions intended for the tourism sector (10.64%).

An Official Notice of the VCB was published in the Official Gazette of March 26. The notice establishes the maximum social interest rate referred to in the Special Law of Protection of Dwelling Unit Mortgages (10.66%); the special social interest rates applicable to mortgage credits for acquisition of principal dwelling units (4.66%, 6.66%, and 8.66%); the special social interest rate applicable to mortgage credits for construction of dwelling units (9.66%); and the special social interest rates applicable to mortgage credits for improvement, enlargement and self-construction of principal dwelling units (4.66% and 6.66%). The interest rates will be applied as from April 2013.

Resolution No. 13-03-02, issued by the VCB was published in Official Gazette of March 26. The Resolution establishes that the bank institutions may **only charge** their clients or the general public for **commissions, rates and/or surcharges** prescribed in this Resolution and for those established by the VCB through resolutions and official notices. However, the Resolution prescribes that the bank institutions **may establish by mutual agreement** with their clients the amounts of commissions, rates or surcharges for subscription to or provision of specialized products or services; but said amounts must be approved by the VCB before being charged. Resolution No. 12-09-02, reprinted and published in the Official Gazette of September 10, 2012 was **repealed**. The Resolution became effective upon its publication in the Official Gazette.

Resolution No. 12 of the Ministry of the Popular Power for Housing and Habitat was published in the Official Gazette of April 1. The Resolution

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establishes the **financing conditions that will govern the granting of credits** for acquisition, self-construction, enlargement or improvements of principal dwelling units. Resolution No. 154, published in the Official Gazette of July 20, 2012, was **repealed**, as well as any other provision with an equal or lower status that conflicts with the Resolution. The Resolution became effective upon its publication in the Official Gazette.

An Official Notice issued by the VCB was published in the Official Gazette of April 9. It establishes the **interest rates** applicable to obligations derived from employment relationships (15.27% and 14.89%); to the acquisition of vehicles under the “balloon payment” method (15.27%); to transactions with credit cards (29% and 17%); and to the credit transactions intended for the tourism sector (10.28%).

## Tax

**T**he National Integrated Service of Customs and Tax Administration (“SENIAT”) issued Ruling No. SNAT/2013/0015, which establishes the **rate** applicable to **the calculation of late payment interest** accrued during **February 2013**. The Ruling provides 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 February 2013 is **18.07%** which rate is to be increased 1.2 times for the calculation of late payment interest accrued during February 2013. The Ruling was published in the Official Gazette of March 19.

SENIAT issued Ruling No. SNAT/2013/0019, which establishes the **rate** applicable to **the calculation of late payment interest** accrued during **March 2013**. The Ruling provides 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 March 2013 is **16.67%** which rate is to be increased 1.2 times for the

calculation of late payment interest accrued during March 2013. The Ruling was published in the Official Gazette of April 16.

Resolution No. 015/13, issued by the Ministry of the Popular Power for Sports, was published in the Official Gazette of April 25. The Resolution **extends** for thirty (30) calendar days, as from May 1, 2013, **the period of time to make the declaration and payment** of the contribution to the National Fund for Development of Sports, Physical Activity, and Physical Education, for the companies that perform economic activities for profit in the country. The Resolution **extends** for twenty-five (25) calendar days, as from May 1, 2013, the period to pay the aforesaid contribution, for all companies that made the declaration up to April 30, 2013. The Resolution became effective upon its publication in the Official Gazette.

## Labor

**T**he Ministry of the Popular Power for Labor and Social Security, through Resolution No. 8,216, published in the Official Gazette of March 21, **convoked** a Regulated Labor Meeting for the Branch of Activity of the Health Sector.

Decree No. 30, issued by the President of the Republic, was published in the Official Gazette of April 30. The Decree established a **gradual increase in the mandatory monthly minimum salary** in all of the national territory for the workers of the public and private sectors, as follows: (i) for workers of the **public and private sectors**, 20%, as from May 1, 2013, resulting in a salary of Bs. 2,457.02 per month; 10%, as from September 1, 2013, resulting in a salary of Bs. 2,702.73 per month; and between 5% and 10%, as from November 1, 2013, contingent upon the National Consumer Price Index (“NCPI”) of the current year: (ii) for **adolescents and apprentices**, 20%, as from May 1, 2013, resulting in a salary of Bs. 1,826.91 per month; 10%, as from September 1,

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2013, resulting in a salary of Bs. 2,009.60 per month; and between 5% and 10%, as from November 1, 2013, contingent upon the NCPI of the current year; and (iii) the minimum amount set for **retirement pensions** and for the pensions granted by the Venezuelan Institute of Social Security (“*Instituto Venezolano de los Seguros Sociales*”) is the one established in (i) above. The Decree became effective on May 1.

Decree No. 44 that issues the Partial Regulations to the Decree with the Status, Value, and Force of Organic Law on Labor and Workers, in relation to Working Time was published in the Official Gazette of April 30. The Regulations **repealed** articles 78 through 94 of the Regulations to the Organic Labor Law of April 28, 2006 and made the relevant adjustments to the provisions of the new Organic Law on Labor and Workers (“OLLW”). In addition, three new articles were enacted, namely, 11, 12, and 14. Article 11 prescribes that the Ministry with jurisdiction over labor and social security matters **may modify**, through a resolution, the **limits of the working hours** referred to in article 178 of the OLLW, after consultation with the unions, clearly establishing that extra hours will be paid to the workers with the extra charge indicated in article 118 of the OLLW. Then, article 12 provides that **rest time may be fractionated**, with the previous agreement of the workers and the employer. However, in no case may the workers work for more than five continuous hours. The last and new provision of article 14 establishes that the worker who provides services on one or two of the days of his/her weekly rest time will be entitled to enjoy **one or two additional days of remunerated compensatory rest** during the following work week, without the possibility of substituting this benefit with a benefit of a different nature. The Decree became effective upon its publication in the Official Gazette.

## Exchange Control

**T**hrough Ruling No. 113, published in Official Gazette of March 13, the Foreign Currency Administration Commission (“CADIVI”) **amended** Ruling No. 111, which establishes the **requirements and formalities for export transactions**. Article 21 of Ruling No. 111 prescribed that the withholdings could be used for export expenses or for acquisition of securities. The amendment limits the use and withholding of foreign currency derived from exportation to what is established in the Exchange Agreements; therefore, it **limits the use of foreign currency** to export expenses other than financial debt.

Exchange Agreement No. 21 issued by the VCB was published in Official Gazette of March 22. The Agreement establishes that the Superior Entity for Optimization of the Exchange System will **regulate** the terms and conditions of the **special auctions** of foreign currency resulting from the Republic’s petroleum-derived income in foreign currency, which will be **used to cover imports** for the real sector of the national economy, through the Foreign Currency Administration Complementary System, administered by the VCB, and according to the calls to be issued to that end. Pursuant to the Agreement, the regulation to be issued by the Superior Entity for Optimization of the Exchange System will determine the methodology for the relevant award. In any case, it is established that no quotations will be allowed at rates lower than the official rate of exchange for sale of foreign currency, currently fixed at **Bs. 6.2842 per US\$. 1.00**. In addition, said regulation will establish the **entities authorized** to participate as demanders in the Foreign Currency Administration Complementary System; the requirements to be met by them in order to participate; the mechanisms for monitoring and controlling the import transactions made with the foreign currency obtained by means of bids awarded through said system, as well as for the evaluation of their performance. The Agreement 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 March 21 and published again in the Official Gazette of March 22, 2013, due to an error in the original text. The Notice establishes the **Partial Amendment to Resolution No. 13-02-01**, published in the Official Gazette of February 13, 2013, relating to the **accounts in foreign currency** in the National Financial System. This amendment includes new articles, according to which (i) the legal persons domiciled in the country **may maintain funds** in foreign currency in call deposit accounts or time deposit accounts with universal banks governed by the Law of Partial Amendment to the Law of Institutions of the Banking Sector, subject to the conditions established in the Resolution; (ii) if Petr6leos de Venezuela, S.A. (“PDVSA”) and its affiliates pay the foreign component of their contracts, in foreign currency, to legal entities domiciled in the country, said payments **may be credited** to call deposit accounts or time deposit accounts in foreign currency, with universal banks governed by the Law of Partial Amendment to the Law of Institutions of the Banking Sector, and (iii) it is established that the mixed companies referred to in the Organic Hydrocarbons Law, the Organic Gaseous Hydrocarbons Law, and the Organic Law for Development of Petrochemical Activities **may maintain** in accounts in the national banking system **foreign currency** derived from their course of business and from financing received, in order to make the payments and contributions established in the Resolution. The foreign currency received by reason of transfers made through transactions other than those indicated in the Resolution, as well as the foreign currency with respect to which the cause originating the same may not be sufficiently determined, **will be subject to mandatory sale to the VCB**, within two (2) bank business days following receipt of the same. The Sole Paragraph of article 2 and articles 8 and 10 of Resolution 12-09-01, published in Official Gazette dated on September 6, 2012, are **repealed**. The Resolution became effective upon its publication in the Official Gazette.

## Insurance and Reinsurance

**T**he Superintendence of the Insurance Activity issued Ruling No. SAA-0000-658, which was published in the Official Gazette of March 14, whereby it established the rules that prescribe the **minimum number of insurance policies** assigned to the insurance companies for the commercialization of affordable/supportive health, personal accident, and funeral expenses insurance. The purpose of the rules is to establish the minimum number of affordable/supportive health, personal accident, and funeral expenses insurance policies that the insurance companies are bound to maintain and write during 2013. For the subsequent periods, the Superintendence of the Insurance Activity will issue the relevant administrative act. The Ruling **repeals** the administrative act contained in Ruling No. FSAA-002993, published in Official Gazette No. 39.762 of September 21, 2011, through which the rules that established the minimum number of insurance policies assigned to the insurance companies for the commercialization of affordable/supportive health, personal accident, and funeral expenses insurance were established.

The Superintendence of the Insurance Activity issued Ruling No. FSAA-0000-746, whereby it decided to amend Ruling No. HSS-100-001, published in Official Extraordinary Gazette of February 19, 1992, which established the **Accounting Rules for Insurance Companies**. These new rules will become effective upon the express notification to be addressed by the Superintendence to the regulated entities, in order for them to adapt their annual financial statements to the current rules. These rules will be published in the Official Gazette, together with the relevant notification. The Ruling was published in the Official Gazette of April 1.

The Superintendence of the Insurance Activity issued Ruling No. FSA-000747. The Ruling establishes the rules relating to the **requirements** that the **monthly analytical financial statements** to be submitted by

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the insurance companies authorized to operate in Venezuela must contain, as well as the **mechanisms for their submittal** by the regulated entities. The Ruling expressly **repeals** Ruling No. 000002, published in the Official Gazette No. 37,858 dated January 15, 2004. The Ruling was published in the Official Gazette of April 25; however, the new rules contained therein will become effective upon the express notification to be addressed by the Superintendence to the regulated entities, in order for them to adapt their annual financial statements to the current rules. These rules will be published in the Official Gazette, together with the relevant notification.

## Miscellaneous

### Essential or mass consumption goods

**T**he Ministries of the Popular Power for Agriculture and Lands, for Planning and Finance, for Nourishment, and for Commerce issued a Joint Resolution, which was published in the Official Gazette of March 18. Through said Resolution, they resolved to categorize as **essential or mass consumption goods**, for purposes of the obtainment of the benefit prescribed in the Organic Customs Law, the goods corresponding to the sub-item of the schedule of customs duties indicated in the Joint Resolution. The **period of validity** of the Joint Resolution is of one (1) year as from March 13, 2013 and it may be extended for an equal and consecutive period, through a joint resolution of the same Ministries.

### Single Guide for Transportation, Monitoring, and Control of Medicines (Extension)

Resolution No. 011-13 of the Ministry of the Popular Power for Nourishment was published in Official Gazette of April 12. The Resolution **extends for forty-five (45) business days** the period of time 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, dated 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. According to the foregoing, 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, for a period of forty-five (45) business days as from the effective date of the Resolution. The Resolution became effective on April 12.

## Social Responsibility

**I**n pursuance of our social responsibility, Travieso Evans Arria Rengel & Paz is deeply committed to supporting the *Instituto Venezolano para el Desarrollo Integral del Niño* (“INVEDIN”). INVEDIN is a private not-for-profit civil association founded in 1974, engaged in improving the quality of life of children and adolescents with risks or problems in their integral development. In this connection, we would like to invite you to participate and to support this noble cause by financing or making another type of contribution to any of the projects listed in this link:

<http://www.traviesoevans.com/memos/Project-2013.pdf>

For further information, please contact us or visit INVEDIN’s web site at INVEDIN  
<http://www.invedin.org>

Caracas, May 15, 2013.

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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.