

Legal update

New Law of the Venezuelan Central Bank

January 2016 Public Law

The Presidency of the Republic published in the Official Gazette No. 6,211 Extraordinary, dated December 30, 2015, Decree No. 2,179, with Rank, Value and Force of Law, the Reform of the Venezuelan Central Bank Law (“**New BCV Law**”). This legislation reforms the Decree with Rank, Value and Force of Law of the Venezuelan Central Bank Law (“**Repealed BCV Law**”), published in the Official Gazette No. 6,155 Extraordinary, dated November 19, 2014.

The New BCV Law provides a series of reforms among which we would highlight the following:

- **Election of the President of the Venezuelan Central Bank:**

Under the provisions of the Repealed BCV Law, the President of the Venezuelan Central Bank (“BCV”) was appointed by the President of the Republic but had to be ratified by the majority of votes of the members of the National Assembly (“AN”). Nevertheless if these rejected successively two candidates, the President of the Republic would appoint it and the AN had to ratify. However, the New BCV Law, provides that the President of the BCV will be appointed by the President of the Republic, without the need for ratification by the National Assembly.

- **Appointment of Directors of the Venezuelan Central Bank:**

The Repealed BCV Law established that the AN was entitled to appoint two (2) BCV Directors by the majority of votes of its members. However, the New BCV Law provides that it is the President of the Republic who may appoint the six (6) BCV Directors, one of which will be the Minister of Finance.

- **Evaluation Committee for Merits and Credentials:**

The Repealed BCV Law stipulated that the AN should set up the Committee for the evaluation of merits and credentials, in charge of verifying and evaluating the credentials of the directorship candidates. Nevertheless, the New BCV Law grants such attribution to the President of the Republic.

Similarly, under the Repealed BCV Law, such committee was comprised by two representatives elected by the AN, two by the National Executive, and one by the National Academy of Economic Science. However, the New BCV Law provides that such committee will be comprised by two representatives elected by the AN, two by the President of the Republic and one by the Vice Presidents’ Council of the Ministers’ Council.

- **Removal of Members from the BCV’s Directorship:**

The Repealed BVC Law established that the removal of the members from the BCV's Directorship could occur with two thirds vote of the AN members. Notwithstanding, the New BCV Law provides that the procedure for removal of any of the members of the Directorship may be initiated by the President of the Republic, the BCV President, or at least by two of its directors, without the need to remit the matter to the AN for approval. On the contrary, the decision now relies exclusively on the President of the Republic.

- **Direct Credits:**

The New BCV Law provides that exceptionally – as long as that it does not conflict with the prohibition of granting direct credits to the national government, as well as guaranteeing the obligations of the Republic, States, Municipalities, Autonomous Institutes, State Companies, or any other organ of public or private nature – the BCV may obtain, grant, or finance credit to the State and public or private entities, when objectively, there is an internal or external threat to the security or other damage to the public interest, which the President of the Republic will determine through a confidential report; or in those cases approved unanimously by the directorship.

- **Temporary Suspension of the Publication of Information:**

The New BCV Law provides that when required by the National Executive, the directorship, in the performance of its duties, may temporarily suspend the publication of information for the period during which there are internal or external situations that suppose a threat to national security and the economic stability of the nation.

- **Assessment of the BCV President on the submission of information or documents marked as “secret” or “confidential”, and submission of this information to the AN:**

The New BCV Law as well as the Repealed one, provides that the AN or its commissions may access the information or documents marked as secret or confidential, through a request to the BCV President. However, the New BCV Law includes that the latter will assess the submission of such information or documents, or their substitution for a report that collects the relevant aspects for the requesting entity, when the nature of the information compromises the security or performance of the BCV.

Likely, the New BCV Law as well as the Repealed one, state that notwithstanding the periodic reports, the AN may request any information deemed convenient from the BCV, as well as the appearance of the BCV President. They also provide that in these cases the confidential information must be directly handed to the President of the AN. However, the New BCV Law establishes that such submission will be done in accordance with Article 42, in other words, submission of such information or documents, or their substitution for a report that collects the relevant aspects for the requesting entity, when the nature of the information compromises the security or performance of the BCV.

- **Outline of Procurement of Information agreed between the BCV and the Executive:**

The New BCV Law includes that the BCV shall agree with the National Executive the outline of procurement of information, during internal or external circumstances that threaten national security and the economic stability of the nation.

- **Authorization for the arrival and departure from the territory of monetary species representatives of the bolivar:**

The New BCV Law as well as the Repealed BCV Law, provides that the import, export or trade of Venezuelan or foreign currency, of legal use in their respective countries, are subject to the regulations established by the BCV. However, the New BCV Law adds “including authorization for the arrival and departure from the territory (...) of monetary species representatives of the bolivar”.

For further information, please contact one of the following lawyers:

>Luis Ernesto Andueza	Caracas	+58 212.276.0007	Luis.andueza@nortonrosefulbright.com
>Rubén Eduardo Luján	Canada	+1 416.216.3994	Rubeneduardo.lujan@nortonrosefulbright.com
>Ana Carolina Serpa	Caracas	+58 212.276.0028	Anacarolina.serpa@nortonrosefulbright.com

Norton Rose Fulbright Canada LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients.

References to "Norton Rose Fulbright", "the law firm", and "legal practice" are to one or more of the Norton Rose Fulbright members or to one of their respective affiliates (together "Norton Rose Fulbright entity/entities"). No individual who is a member, partner, shareholder, director, employee or consultant of, in or to any Norton Rose Fulbright entity (whether or not such individual is described as a "partner") accepts or assumes responsibility, or has any liability, to any person in respect of this communication. Any reference to a partner or director is to a member, employee or consultant with equivalent standing and qualifications of the relevant Norton Rose Fulbright entity.

The purpose of this communication is to provide general information of a legal nature. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.