

Legal update

Venezuela announces changes to currency exchange system

March 2016

Public law

The Central Bank of Venezuela (*Banco Central de Venezuela* - BCV) published Exchange Agreement No. 35 in Official Gazette No. 40,865 of March 9, 2016, establishing the rules governing the foreign exchange administration regime (Exchange Agreement No. 35).

This regulation repeals Articles 1 and 2 of Exchange Agreement No. 25; Articles 5, 6, 8 and 15 of Exchange Agreement No. 28; Exchange Agreement No. 29; Exchange Agreement No. 14 and Articles 25 to 31 of Exchange Agreement No. 33, as well as all provisions that conflict with the provisions of this new regulation.

Exchange Agreement No. 35 entered into force on March 10, 2016.

We would like to highlight the following provisions of Exchange Agreement No. 35:

New exchange rates

New exchange rates: (i) The Protected Exchange Rate: purchase price: Bs. 9.975 per one United States Dollar (USD); sale price: Bs 10.00 per USD 1.00; and (ii) The Complementary Floating Market Exchange Rate.

Exchange rate categories

Activities Subject to Protected Exchange Rate:

- Payment of foreign public debt;
- Payment of imports of goods included in the list of food and health sector items, and the raw materials and inputs associated with the production of such items. The list of the relevant customs tariff codes will be published on the Foreign Trade Center's website (*Centro de Comercio Exterior* - CENCOEX);
- Settlement of imports of goods included in the aforementioned list of customs tariff codes, channeled through the Reciprocal Payments and Credits Agreements entered into with the central banks of the member countries of the Latin American Integration Association (ALADI), the Central Bank of the Dominican Republic, as well as the operating banks authorized to process transactions through the Unitary System of Regional Payment Compensation (*Sistema Unitario de Compensación Regional de Pagos* - SUCRE);
- Settlement of foreign currency sales transactions for the conversion of old-age pensions, partial disability, disability and survivor benefits, paid by the Venezuelan Institute of Social Security (IVSS) to residents abroad;

- Settlement of foreign currency sales transactions for the conversion of pensions of retirees living abroad;
- Settlement of foreign currency sales transactions to cover expenses for healthcare, sports, culture, scientific research and other cases of special urgency;
- Acquisition of foreign currency required by public sector entities and foreign currency sales to the BCV by such entities;
- Settlement of foreign currency transactions to cover education-related expenses for academic study abroad, corresponding to applications which, on the day immediately prior to March 10, 2016, have approved principal, successive or complementary applications for the acquisition of foreign currency, and those that are subsequently issued for continuing the respective academic activity that has already begun on such date and only until the period provided for in the academic offering corresponding to ongoing studies;
- Sales transactions conducted at the exchange rate of Bs. 6.30 per USD 1.00 that until the day immediately prior to March 10, 2016, do not have the Foreign Exchange Settlement Authorization (*Autorización de Liquidación de Divisas* - ALD) but whose import completion file has been consigned by the CENCOEX exchange operator by such date.

Activities Subject to Complementary Floating Market Exchange Rate:

- Sale of foreign currency by basic industries and non-oil entrepreneurial public entities obtained from their activity, produced in accordance with the respective authorizations (reduced by 0.25%);
- Sale of foreign currency by international institutions with which the Republic has entered into international agreements or conventions as well as the buying of foreign currency from such institutions (reduced by 0.25%);
- Sale of foreign currency to diplomatic and consular representatives, their officials and foreign officials of international agencies as well as the buying of foreign currency by these individuals (reduced by 0.25%);
- Sale of foreign currency for the payment of purchases and cash advances with credit cards during trips abroad and acquisition of cash for minors when traveling abroad;
- All those foreign currency settlement operations not specified in Exchange Agreement No. 35.

Activities Subject to Any Exchange Rate:

- With respect to the operations of the mixed companies referred to in the Organic Hydrocarbons Law, the Organic Law of Gaseous Hydrocarbons and Organic Law for the Development of Petrochemical Activities, resulting from financing, financial instruments, capital contributions in cash, sale of assets, exports and/or sale of hydrocarbons, dividends received, collection of debts, provision of services and from any other source, these shall be made at any of the above exchange rates, reduced by 0.25%, as determined by the Sectorial Vice Presidency of the Economy, the People's Ministry of Banking and Finance and the BCV, based on the policies established and the availability of foreign currency to meet the needs of the economy governed by the protected exchange rate.

Transitional regime

The Marginal Currency System (*Sistema Marginal de Administración de Divisas* - SIMADI) will continue to operate until it is replaced within a maximum term of 30 days. Consequently, until it is replaced, The Complementary Floating Market Exchange Rate will be the SIMADI exchange rate which, by way of reference, stood at Bs. 221.0924 per USD 1.00 on March 11, 2016.

Closing comment

Exchange Agreement No. 35 does not regulate the procedure to be used by the private sector to purchase or sell foreign currency through the new complementary floating market exchange rate system. In any event, and in accordance with the provisions regarding the transition regime, it follows that regulations will soon be published that develop such system.

Luis Ernesto Andueza
Rubén Eduardo Luján
Ana Carolina Serpa

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	Caracas	+58 212.276.0013	rubeneduardo.lujan@nortonrosefulbright.com
> Ana Carolina Serpa	Caracas	+58 212.276.0028	anacarolina.serpa@nortonrosefulbright.com

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