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EXCHANGE CONTROLS

FLASH REPORT

CONVENIO CAMBIARIO Nº 1

FOREIGN-EXCHANGE AGREEMENT No. 1

Foreign-Exchange Agreement No. 1 (hereinafter the "Agreement") entered into between the National Executive, through the People's Power Ministry for the Economy and Finance, and the Central Bank of Venezuela ("BCV"), effective on September 7, 2018, has been published in Official Gazette Special Issue No. 6,405 dated September 7, 2018.

This is a lengthy agreement, consisting of 89 articles, that provides the framework for a new, comprehensive foreign-exchange system designed --as stated in the Preamble—to foster the harmonious growth of the economy.

The Agreement allows for a more flexible foreign-exchange system than the previous one and provides guidelines for so-called "free convertibility" that is, however, limited to certain transactions between private parties and corporations, both public and private.

The Agreement repeals all former foreign-exchange agreements, including No. 39 --the agreement that established the DICOM system. The Agreement refers to a Foreign-Exchange Market System, but makes no mention of the DICOM; the assumption, therefore, is that the auctions being announced by the government will be carried out under this Foreign-Exchange Market System.

I. General Content

The Agreement covers the following items:

1. Fundamental Provision.
2. General Provisions.
3. Transactions in foreign currency.
4. Small-scale foreign-exchange transactions.
5. Foreign-exchange operators.
6. Accounts in foreign currency in the domestic financial system
7. Foreign-exchange transactions by international organizations, diplomatic and consular missions, their officers as well as foreign officers working for international organizations.

8. System applicable to the public sector: Petroleum; non-petroleum and strategic minerals.
9. System applicable to the private sector:
   i) Foreign investment.
   ii) Foreign-exchange transactions by private-sector exporters.
   iii) Programs for financing the private exporting sector through the Venezuelan Bank for Economic and Social Development (BANDES) and the Foreign Trade Bank (BANCOEX).
   iv) Transactions in foreign currency by parties providing tourism services, as well as payments for merchandise sold to passengers.
   v) Transactions in foreign currency by parties providing lodging services for tourists.
   vi) Transactions in foreign currency by parties providing transportation services.
   vii) Transactions in foreign currency by travel and tourism agencies.
   viii) Payments for merchandise to be sold to passengers.
   ix) Standard provisions applicable to the tourism sector.
10. Final Provisions

II Highlights

Among the many items covered, the following merit special mention:

1. The Agreement states that the purpose is to provide for "free convertibility of the currency throughout the national territory in an orderly foreign-exchange market."

   Note: The Agreement provides for greater flexibility in the management of foreign exchange; nevertheless, based on the guidelines presented for management of the foreign-exchange market the system could be classified as one allowing for possible convertibility of the foreign currency, under the control of the Central Bank of Venezuela and subject to the parameters and restrictions set by that agency.

2. The BCV will directly centralize the purchase and sale of foreign currency in the case of the public sector and export activities.
   Exporters continue to be under the obligation to sell 20% of the foreign currency received for their exports to the BCV at the Foreign-Exchange Market System rate. Exporter may keep 80% to cover their activities and needs.

3. In the case of liabilities in foreign currency, the Agreement provides:
   a) In the case of a liability where foreign currency has been agreed to as the unit of account, payment may be made in that currency or in bolivars, at the exchange rate in effect on the payment date;
   b) In the case of a liability where it has been agreed that payment is to be made in foreign currency, payment is to be made as agreed even if the agreement was made when foreign-exchange restrictions were in place; and

c) In the case of a liability where it has been agreed that payment is to be made in foreign currency, the agreement shall only be understood to have been amended when it predates the establishment of foreign-exchange restrictions and provided these restrictions prevent the debtor from paying as agreed, in which case the debtor shall be released from the obligation by paying in bolivars at the exchange rate in effect on the date of payment.

4. The official exchange rate shall be the weighted average of the Foreign-Exchange Market System.

5. Buy and sell transactions within the private sector are to be carried out using the Foreign-Exchange Market System.

6. Universal banks and other institutions authorized by the BCV may participate as foreign-exchange operators.

7. Entities in the banking, insurance and securities market sectors may not engage in foreign-exchange transactions in the Foreign-Exchange Market System for their own account.

8. Individuals and corporations are allowed to sell up to 8,500 Euros per transaction using foreign-exchange operators, universal Banks and exchange houses, at the Foreign-Exchange Market System rate.

9. Individuals must be of legal age. When selling foreign exchange, the person must specify the lawful source and destination currency.

10. The Agreement authorizes the trading in domestic currency of securities issued by private companies trading on regulated securities markets through the Stock Exchange.

11. In order to sell foreign exchange, those interested must open and keep accounts in foreign currency in the domestic financial system. Financial institutions must provide the BCV with information concerning these accounts.

12. PDVSA and its subsidiaries may pay the foreign component covered in agreements signed for the purpose of engaging in their activities in foreign currency.

13. Parties subject to the Constitutional Productive Foreign-Investment Act (foreign investors) may repatriate their profits or dividends under the terms and conditions provided for in that Constitutional Act.

14. The Agreement provides for a special system applicable to transactions in foreign currency carried out by parties providing lodging for tourists, transportation services, and travel and

tourist agencies working with incoming tourism, as well as payments for merchandise sold to passengers in Duty Free Shops.
These parties providing these services are allowed to carry out transactions in foreign currency and keep part of that foreign currency, following the guidelines set in the Agreement.

15. Conversion of foreign currency for the purpose of determining the taxable base of tax liabilities involving customs transactions is to be carried out using the reference rate in effect on the date the tax obligation is paid. This same reference rate, in effect on the date of payment, is to be used to determine the amount payable for services ancillary to the Customs and Tax Administration and related services

16. Tax obligations provided for under special laws, as well as the fees, commissions, surcharges and public prices determined in foreign currency in the respective rules and regulations, may be paid in the currency in which they are denominated, or by paying the equivalent in another foreign currency, or in bolivars at the reference rate in effect on the date of the transaction, unless the special rule or regulation in question calls for a specific method for payment.

This report is not intended to provide a comprehensive overview of the entire Agreement, only a summary description of some specific aspects that we feel are of interest in connection with a framework agreement that covers all aspects of the new foreign-exchange system.

Please do not hesitate to contact us if you have any questions regarding this matter.

Yours truly,
BENSON, PÉREZ MATOS, ANTAKLY & WATTS

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