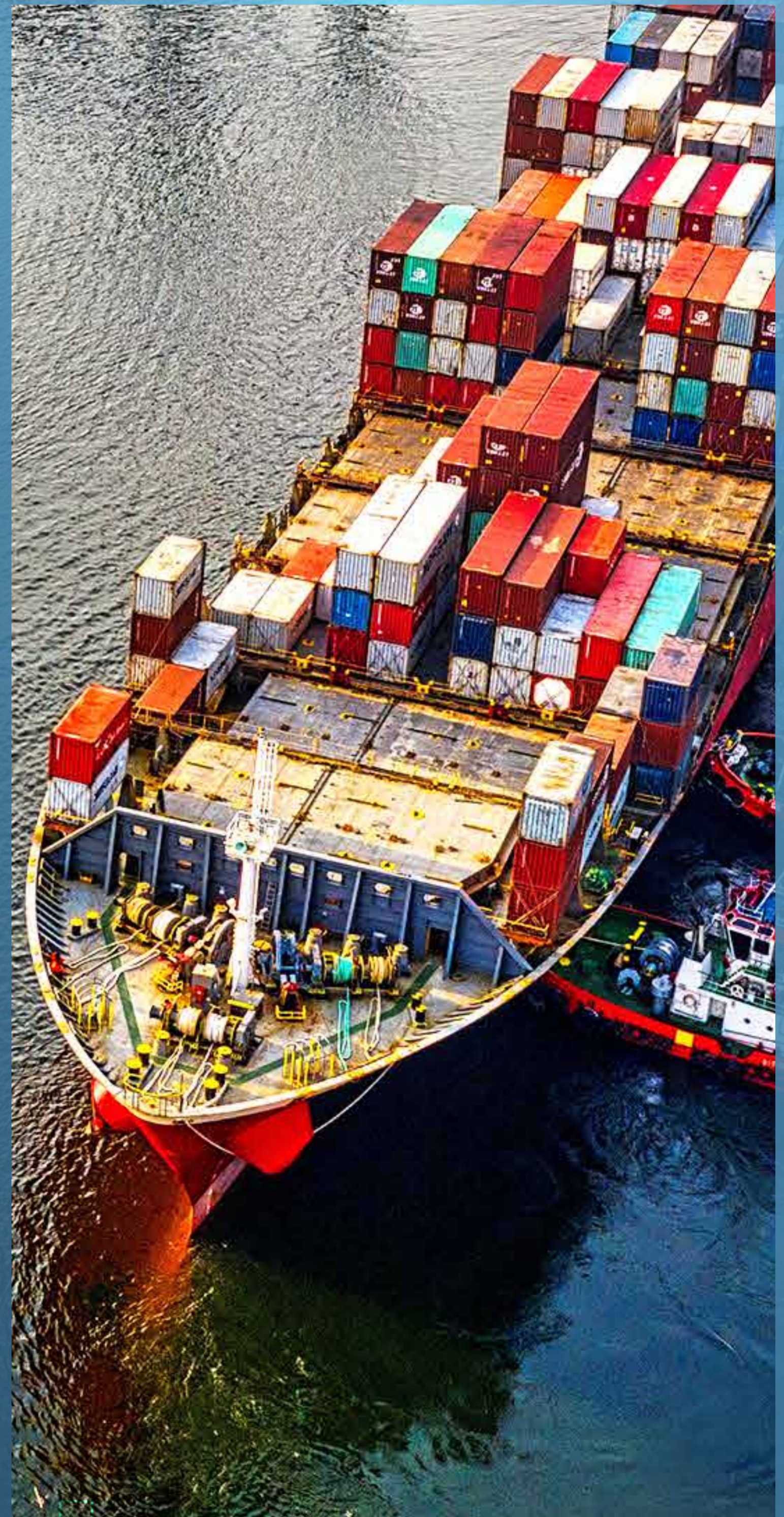




Annual corporate compliance



TAX & LEGAL

Bogotá D.C.
March 1, 2023



Dear:
Clients and friends of KPMG Advisory, Tax & Legal S.A.S.

Subject: 2023 annual corporate compliance for legal entities with presence in Colombia

Find herein a summary of the corporate, commercial, customs and foreign exchange obligations for 2023.

1. Corporate and commercial obligations

1.1. Renewal of the mercantile registry

- Legal entities (companies and branches) must renew each year their mercantile registry before the chamber of commerce of their place of domicile.
- The renewal process may be carried out virtually.
- Failing to comply with this obligation may entail economic sanctions by the Superintendence of Industry and Commerce.
- In order to renew the mercantile registry, legal entities (companies and branches) must have the final financial statements for the period.

1.2. Hosting the general shareholders or partners assembly of 2023

- Legal entities shall hold, no later than March 31, 2023, an ordinary meeting of the general shareholders' meeting or partners' meeting, to:

(i) Review and approve the financial statements for the period 2022: pursuant to article 46 of law 222 of 1995, the financial statements must: **(a)** be submitted to the highest corporate body; **(b)** be audited by the statutory auditor (when applicable); and **(c)** be certified by the legal entity's accountant and legal representative, together with

the corresponding notes, opinions and other reports prepared by the statutory auditor or accountant.

Within the month following the approval of the financial statements, the same must be deposited before the chamber of commerce of their place of domicile.¹ Failure to comply with the above will result in the impossibility of approving financial statements and possible sanctions by the Superintendence of Companies (hereinafter, the "Superintendence").

(ii) Review and approve the directors' management report: pursuant to article 47 of law 222 of 1995 (amended by article 1 of law 603 of 2000), the directors' management report for the period 2022 must contain at least: **(a)** a detailed statement about the evolution of the business and the economic, administrative and legal situation of the legal entity; **(b)** the important events that occurred after the fiscal year; **(c)** the foreseeable evolution of the legal entity; **(d)** a summary of the operations entered into with partners and directors; **(e)** the status of compliance with intellectual property and copyright regulations; and, **(f)** the status of implementation of SAGRILAF's policies, if applicable.

(iii) Review the statutory auditor's report: if the legal entity has a statutory auditor, this shall submit a report on the matters within his competence.

(iv) Designate and/or ratify directors.

(v) Distribute profits in case there is a need to do so.

Note 1: Directors and legal representatives shall be attentive to the compliance with the hypothesis of "going concern" ("Hipótesis de Negocio en Marcha"). In case the local legal entity does not comply with the "going concern" hypothesis, the respective procedure must be observed to proceed or avoid (as the case may be) its liquidation.

Note 2: For those legal entities that have adopted the status of Benefit Corporations ("Sociedad de Beneficio de Interés Colectivo" - BIC) the BIC management report must be presented and approved within the general shareholders or partners general assembly.

1. Legal entities (companies or branches) subject to surveillance or control by the Superintendence are required to file their general-purpose financial statements before this entity, for which reason they are exempted from filing their financial statements with the chamber of commerce of their place of domicile.

1.3. Appointment of the statutory auditor

- Companies that meet any of the following conditions must appoint a statutory auditor:
 - a)** Gross assets, up to December 31st, 2022, equal or superior to COP\$ 5.000.000.000, meaning 5000 minimum Colombian wages.
 - b)** Gross income, up to December 31st, 2022, equal or superior to COP\$ 3.000.000.000, meaning 3000 minimum Colombian wages.
- Failing to comply with this obligation may entail economic sanctions by the Superintendence.

1.4. Web page's registration

- Web pages and internet sites of Colombian origin whose economic activity is commercial, financial or of rendering of services, shall be registered before the chamber of commerce and shall also provide to the Colombian tax authority (DIAN, per its acronym in Spanish) information of the transactions performed by means of these web pages (subject to what said entity requires).
- Failing to comply with this obligation may entail economic sanctions by the Superintendence and the DIAN.

1.5. Submitting information before the Superintendence

- Companies, branches and one-man enterprises subject to the surveillance or control of the Superintendence or the ones subject to inspection that receive the order of the Superintendence, must inform said entity, within the next five (5) days following the registration of the resolution with the mercantile registry, of any changes regarding: **(i)** corporate name, **(ii)** corporate purpose, **(iii)** economic activity, **(iv)** transformation of the company, **(v)** domicile (including domicile and notification address), **(vi)** closing of the financial statements, **(vii)** term of duration of the company, **(viii)** any bylaws

amendments that may have an impact upon the general legal entities' information available at the Superintendence, **(ix)** appointments and removals of legal representatives (including alternates), board members and auditors, and **(x)** whenever the company declares or acknowledges its dissolution.

- Failing to comply with this obligation may entail economic sanctions by the Superintendence.

1.6. Submitting financial information before the Superintendence

- Pursuant to article 289 of the Commercial Code, all enterprises subject to surveillance and control of the Superintendence must submit their financial statements, up to December 31st, 2022. Also, companies and branches subject to the inspection of the Superintendence must submit their financial statements if requested. Deadlines for submitting the reports are determined in the following table according to the last two digits of the NIT (excluding the verification number):

Last two digits of the tax ID number (NIT.)	Deadline for submitting information	Last two digits of the tax ID number (NIT.)	Deadline for submitting information
01-05	Tuesday, April 11	51-55	Tuesday, April 25
06-10	Wednesday, April 12	56-60	Wednesday, April 26
11-15	Thursday, April 13	61-65	Thursday, April 27
16-20	Friday, April 14	66-70	Friday, April 28
21-25	Monday, April 17	71-75	Tuesday, May 2
26-30	Tuesday, April 18	76-80	Wednesday, May 3
31-35	Wednesday, April 19	81-85	Thursday, May 4
36-40	Thursday, April 20	86-90	Friday, May 5
41-45	Friday, April 21	91-95	Monday, May 8
46-50	Monday, April 24	96-00	Tuesday, May 9

- The dates described above will also apply to entities that: **(i)** are in the process of negotiating or executing a restructuring agreement under the terms of law 550 of 1999, whose promoter is nominated by the Superintendence or by any chamber of commerce in the country; and **(ii)** are admitted to a reorganization process, procedure or procedure in accordance with law 1116 of 2006 or Legislative Decrees 560 and 772 of 2020, whether they are in process or in execution, must report General Purpose Financial Statements, corresponding to the

period from January 1 to December 31, certified and audited, if applicable, with the scope provided in articles 37 and 38 of law 222 of 1995.

- The financial statements must be submitted together with the following additional documents:
 - (i)** Document whereby the legal representative and the accountant certify that the financial statements submitted to the Superintendence comply with the provisions of article 37 of law 222 of 1995. This document must be additionally signed by the statutory auditor, if any, in compliance with article 38 of law 222 of 1995.
 - (ii)** Directors' management report.
 - (iii)** Opinion of the statutory auditor.
 - (iv)** Explanatory notes to the financial statements, which must contain, among others, the disclosures of the statements of: **(a)** financial position; **(b)** comprehensive income for the year; **(c)** components of the other comprehensive income (ORI); **(d)** changes in equity; and (e) cash flow, as an integral part thereof.
 - (v)** Copy of the extract of the minutes of the meeting in which the financial statements for the period 2022 and the management report were approved or disapproved. ²

² This obligation does not apply to branches.

- The supervised legal entities that are in a process of voluntary liquidation or that do not meet the hypothesis of "going concern" will have the deadline to submit their respective reports until May 30, 2023, in accordance with External Circular 100-006 of 2018.
- Failing to comply with this reporting obligation may entail economic sanctions by the Superintendencia.

1.7. Submitting the business practices' report to the Superintendencia

- Report "42 – Prácticas Empresariales" to the Superintendencia must be submitted by companies, branches and sole shareholder enterprises subject to the surveillance or control of the Superintendencia. Deadlines are the following:

Last two digits of the tax ID number (NIT.)	Deadline for submitting information	Last two digits of the tax ID number (NIT.)	Deadline for submitting information
00-10	Tuesday, May 16	51-60	Wednesday, May 24
11-20	Wednesday, May 17	61-70	Thursday, May 25
21-30	Thursday, May 18	71-80	Friday, May 26
31-40	Friday, May 19	81-90	Monday, May 29
41-50	Tuesday, May 23	91-00	Tuesday, May 30

- The responsibility for the filling out, content and accuracy of the report "42 – Prácticas Empresariales" lies with the directors of the regulated entities.
- Failing to comply with this reporting obligation may entail economic sanctions by the Superintendencia.

1.8. Submission of the report on prevention of the risk of money laundering, financing of terrorism and proliferation of weapons of mass destruction

- Report "50 – Prevención LA/FT/PADM" to the Superintendencia shall be submitted by companies, branches and sole shareholder enterprises subject to the surveillance or control of the Superintendencia.
- Failing to comply with this reporting obligation may entail economic sanctions by the Superintendencia.

1.9. Submission of the report on transparency and business ethics programs

- Report "52 – Programas de Transparencia y Ética Empresarial" shall be submitted annually by commercial companies and sole proprietorships subject to surveillance or control by the Superintendencia.
- Failing to comply with this reporting obligation may entail economic sanctions by the Superintendencia.

1.10. Corporate control situation and corporate conglomerate's registration in the mercantile registry

- As stated by law, corporate control situation or a corporate conglomerate shall be notified and registered with the mercantile registry, within the following thirty (30) days counted from the beginning of the corporate control situation or the corporate conglomerate.
- Additionally, any modification to the corporate control situation or the corporate conglomerate shall also be registered with the mercantile registry.
- Failing to comply with this obligation may entail economic sanctions by the Superintendencia.



1.11. Submitting consolidated financial statements

- In case of corporate control or subordination, the parent company shall prepare and submit, in addition to its individual financial statements, general purpose consolidated financial statements that represent the financial situation, operative results, changes in equity, as well as the cash flow of the parent company and its subsidiaries, as if they were one entity.
- Consolidated financial statements or combined financial statements must be submitted with the following additional documents:
 - (i) Document by which the legal representative and the accountant certify that the consolidated financial statements or combined financial statements submitted to the Superintendencia comply with the provisions of article 37 of law 222 of 1995.
 - (ii) Notes to the consolidated financial statements or combined financial statements.
 - (iii) Special report under the terms established in article 29 of law 222 of 1995.
 - (iv) Opinion of the statutory auditor with respect to the person consolidating the consolidated financial statements^{3.4}
- Deadline for the consolidated financial statements or combined financial statements is May 31, 2023.

- Failing to comply with this obligation may lead to economic sanctions by the Superintendencia and the DIAN.

3. Article 38 of law 222 of 1995.

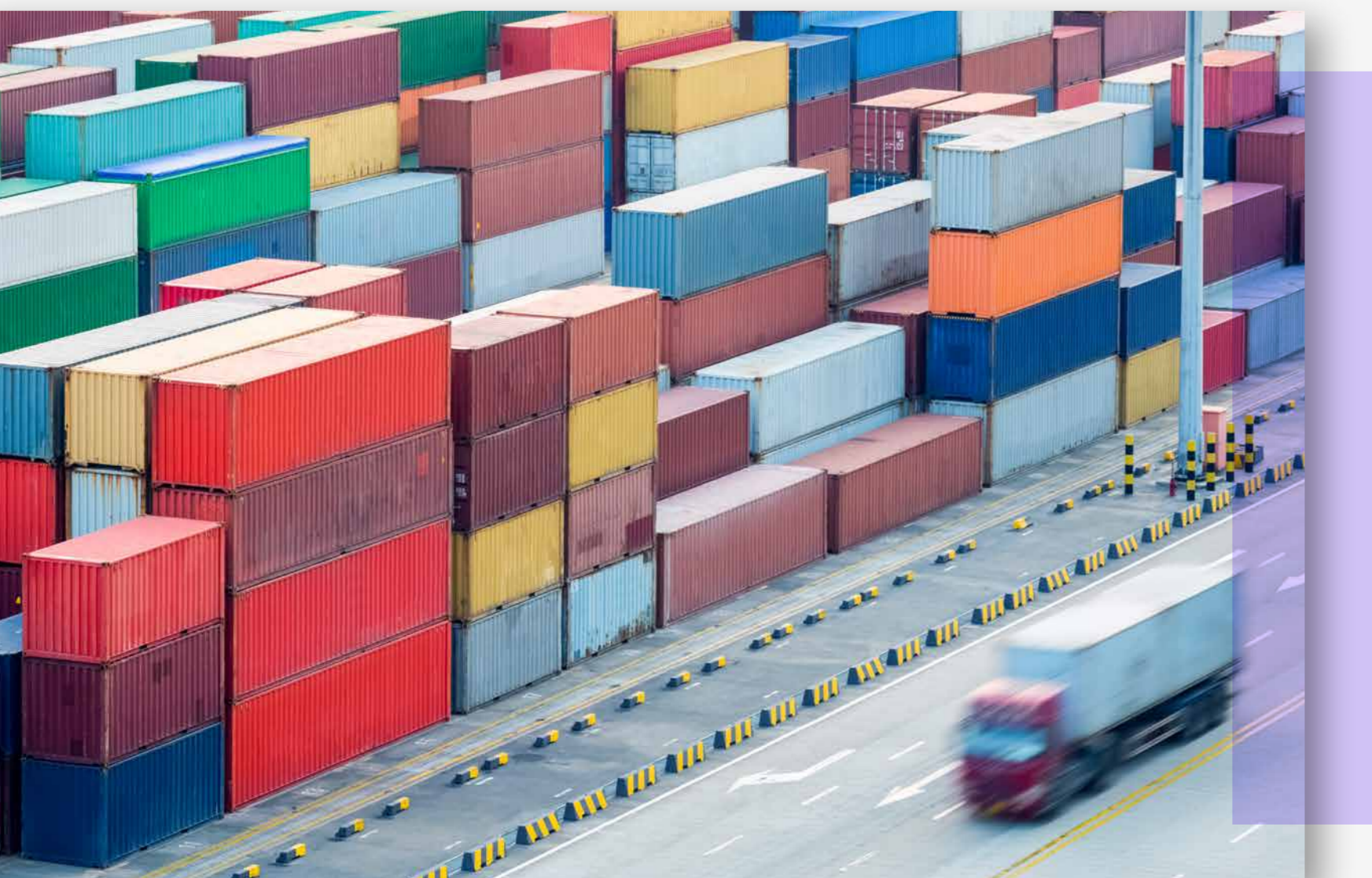
4. This document does not apply to the combined financial statements.

1.12. Special report

- In case of a corporate conglomerate, directors (legal representatives) of the controlled companies and parent company, must present a special report to the shareholders' general meeting or to the meeting of partners (as the case may be), in which the closeness and frequency of the existing economic relations between the parent company or its subsidiaries or affiliates with the respective controlled company are described.
- The Superintendencia may, at any time, verify the accuracy of the content of the special report and, if needed, adopt necessary measures.
- Failing to comply with this obligation may entail economic sanctions by the Superintendencia.

1.13. Registro de las bases de datos

- Private companies and private branches with assets greater 100.000 Tax Value Units (UVT, as per its acronym in Spanish) and all of the public companies shall register their databases, within (2) following months from its creation, in the National Registration Database (RNBD, as per its acronym in Spanish) managed by the Superintendencia of Industry and Commerce, as required by External Letter 3 of 2018.
- Deadlines for actualization of databases are as follows:
 - a) Annually, between February 2nd and March 31st.
 - b) Within the first 10 working days of each month, when substantial changes of the information registered occur.



- Failing to comply with this obligation may entail economic sanctions by the Superintendence of Industry and Commerce.
- All the private companies and foreign branches, even if exempt from the registration obligation within the RNBD, must have a data protection policy and fulfill all the legal guidelines on the matter.

1.14. Surveillance by the Superintendence

- The commercial companies that comply with the following assumptions will be subject to the surveillance of the Superintendence during the year 2023:
- If any of the aforementioned assumptions are met, the Superintendence must be notified before March 31, 2023.

Assumptions	Value in COP / USD
When total assets as of December 31, 2022, have exceeded 30,000 minimum Colombian wages	COP \$30.000.000.000 / USD \$6.369.683 approx.
When the total income as of December 31, 2022, has exceeded 30,000 minimum Colombian wages	
Other monitoring and surveillance assumptions not tied to the value of assets or income	Chapter I Articles 2.2.2.2.1.1.1.2 to 2.2.2.2.1.2.5 of Decree 1074 of 2015.

1.15. Other matters

- Depending on its activities and financial thresholds, legal entities in Colombia may be subject to other requirements by the authorities.

2. Customs and foreign exchange obligations

2.1. Holders of the clearing account

a. Exogenous quarterly exchange information

In accordance with Resolution No. 00161 of 2021, during the months of January, April, July and October, holders of compensation accounts must transmit to the DIAN the exogenous exchange information of the immediately preceding quarter.

The deadlines to fill out the information, will depend on the last digit (**without taking into account the verification digit**) of the NIT (Tax Identification Number) of the holders of the clearing accounts, as follows:

Last digits of the tax ID number (NIT.)	Primer trimestre: Enero - Febrero - Marzo	Segundo trimestre: Abril - Mayo - Junio	Tercer trimestre: Julio - Agosto - Septiembre	Cuarto trimestre 2023: Octubre - Noviembre - Diciembre
	April 2023	July 2023	October 2023	January 2024
1 y 2	The tenth (10th) and eleventh (11th) business day			
3 y 4	On the twelfth (12th) and thirteenth (13th) business day			
5 y 6	The fourteenth (14th) and fifteenth (15th) business day			
7 y 8	The sixteenth (16th) and seventeenth (17th) business day			
9 y 0	The eighteenth (18th) and nineteenth (19th) business day			

Note: Please note that the DIAN has not yet issued the 2023 exchange calendar that stipulates the maximum dates for the presentation of the exogenous exchange information, which is necessary since for the month of April 2023 there is no nineteenth working day.

Quarterly period is understood as the period between January 1st and March 31st, between April 1st and June 30th, between July 1st and September 30th, and, between October 1st and December 31st, respectively.

The information to be transmitted must include details of import and export operations, external indebtedness, services, transfers and other concepts, data clarifications, legalizations of imports already nationalized and information on changes in the data of compensation account. In any case, for purposes of the operations to be transmitted, the exchange numerals determined by Resolution No. 161 of 2021 must be used.

Note: Foreign Exchange Market Intermediaries (IMC) and mail service concessionaires that provide financial mail services, with respect to operations authorized by Banco de la República, are also obliged to submit and transmit exogenous foreign exchange information.

b. Form No. 10 “Description of operations regarding the compensation account”

The Central Bank has established a mechanism for residents in Colombia in order that they comply with their obligations of transfer and reimburse of foreign currency for the payment of their foreign exchange operations.

Within the monthly obligations of the compensation account holders, all the amount received and/or transferred must be informed filing Form No.10 "Description of operations regarding the clearing account" before the Central Bank, on a monthly basis within the calendar month following the operations to be reported, which means, until the last business day of the following month.

2.2. International investment

a. Channeling of the foreign exchange

The recipients of foreign investment in Colombia must channel the amounts received for this matter through the foreign exchange market (foreign exchange market intermediary or clearing account), with the filing of a declaration of data exchange for



foreign investment with the exchange number that applies. The registration will be automatically performed with the channeling of the currencies.

Bear in mind that the branches of foreign subsidiaries may use the same declaration to register the Supplementary Investment of Assigned Capital.

b. Different contributions to foreign currency

International investments made through mechanisms other than foreign currency, for instance, in-kind contributions, capitalization of external credit or sums that the foreign investors have the right to received, as well as business reorganization processes (whether mergers or divisions) must be reported to the Central Bank.

c. Replacement, cancellation and change of capital

The substitution procedures (changes in the holders of the investment or of the receiving company), cancellation or change of foreign investment capital must be registered with the Central Bank through the exchange forms that have been established for that purpose.

d. Advance payments for future capitalizations

Advances payments for future capitalization are considered as external indebtedness and must be registered before the Central Bank prior to the disbursement of resources. In the event that the advance is capitalized, and the shares or quotas of such capitalization are issued, the investment registration must be made. On the contrary, if it is not fully or partially capitalized, this must be reported through the presentation of a form by external indebtedness, which corresponds with the amortization of the debt and reporting the exchange rate that applies to the return of the money (amortization to the capital or payment of interests).

e. Conciliation of patrimonial accounts

Previously, the companies and branches of the general regime that on December 31st of each annuity were recipients of capital investment from abroad, were obliged to transmit Form 15 "Equity conciliation – companies and branches of the general regime" to the Central Bank. The Central Bank eliminated this obligation on September 24, 2018. Thus, for the fiscal year of 2021 it will not be mandatory to file in 2022 the Form No. 15.

Regarding branches of the special regime with the obligation to transmit Form No. 13 "Registration of supplementary investment to the assigned capital and updating of equity accounts - branches of the special regime" the period to inform the updating of the equity accounts and the procedure for electronic transmission is six (6) months counted as of the closing date of December 31st, that is, June 30th of the year following the closing of the fiscal year.

2.3. External indebtedness

The operations of external indebtedness carried out by residents of Colombia, whether passive (in case of being receivers) or active (in the case of being lenders) must be reported to the Central Bank prior or concomitant to the disbursement of resources submit an external indebtedness form through a foreign exchange market intermediary.

Taking into account that the registration of the debt must be processed before a foreign exchange market intermediary, it is pertinent to evaluate with it, in advance, the requirements required for the procedure. From our experience, we could indicate that the supporting documents required include: debt contract between the parties (officially translated in those cases in which the original document is agreed and signed in a language other than Spanish) which indicates the agreed characteristics, including:

- Loaned amount.
- Interest rate agree by the parties.
- Debt repayment plan.
- Creditor or debtor data (company name, country of origin, type of lender or creditor).
- Purpose of the loan.



Once the registration of the foreign indebtedness is done, the amount to be channelized should be informed before the same foreign exchange market intermediary or through the Company's clearing account through the presentation of a declaration of exchange for external indebtedness.

2.4. Foreign Exchange Information System – Central Bank

Within the framework of the digital modernization plan that the international exchange department of Central Bank is carrying out and that will be implemented in three (3) phases, with the objective of gradually replacing the Statistical Exchange System (by its Spanish acronym SEC), we wish to inform that as of September 1, 2021 the first phase of implementation began through the new Exchange Information System, this first phase only replaced the International Investment Module corresponding to the transmission of international investments without foreign exchange channeling (e.g. capitalization of indebtedness, mergers, donation of shares, contributions in kind and cancellations).

However, the implementation of phases 2 and 3 will be announced by Central Bank during the year 2023.

Liability clause

This is a guideline document which does not imply (or intends to be) a legal advice. It is the legal entity's sole responsibility to determine the extent of the described obligations and to ensure their compliance. We are relying upon the relevant provision of the Colombian law, the regulations thereunder, and the judicial and administrative interpretations thereof, which are subject to changes or modifications by subsequent legislative, regulatory, administrative, or judicial decisions. Any such changes could also have an effect on the validity of this document and in case of such legislation changes or any of the considered assumptions, a new analysis of the corporate obligations will be needed.



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