

1. Merger control procedures are reactivated and new guidance for collaborations among competitors during the COVID-19 crisis was issued.

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The Colombian Competition Authority, the Superintendencia de Industria y Comercio - SIC has fully reactivated local merger control procedures, including deadlines for ongoing applications and reception of new filings as of May 12, 2020. Prior to the new decision, all deadlines were suspended, and no new applications were being received, which had significantly impacted ongoing review procedures and the ability to file new applications. New merger control cases will only be accepted electronically.

In a separate decision, the SIC issued formal guidance setting criteria for collaborations among competitors meant to reduce the impact of the COVID-19 emergency. Under the new guidance, collaborations among competitors will be presumed to meet the efficiency test but will need to be informed to the SIC.

Up to this point, there was no requirement (or option) to report collaborations among competitors or to secure approval but the parties still needed to meet the SIC's guidance which required, among others, that the parties were able to provide evidence of efficiencies (among other requirements) to avoid a potential challenge by the SIC.

The new guidance appears to indicate that the report must be filed after the agreement has been entered into, but it is not entirely clear on the subject.

Finally, other collaborations among competitors, i.e. those not meant to address the COVID-19 emergency, will continue to operate under the existing guidance, i.e. no report will be required but the burden of proof on efficiencies will still fall on the parties.

2. Banco de Comercio Exterior de Colombia (Bancoldex) credit lines that contribute to business sustainability and job preservation in the framework of COVID-19

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Through Circular No.006 of April 2, 2020, concerning the credit line under the name of Colombia Responde Para Todos, the National Government, the Ministry of Commerce, Industry and Tourism and Bancoldex, in order to provide liquidity tools that contribute to the sustainability of enterprises and job preservation, have implemented a new preferential credit solution with an amount of the quota of COP 350,000,000,000.

The beneficiaries of this credit solution would be natural and legal persons, considered as micro, small, medium, or large enterprises, from all economic sectors except the agricultural sector, as well as companies financed through the Colombia Responde para Todos. Loans may be granted to partners or shareholders of legal entities when the resources are used to capitalize the company. Likewise, the trustee may also have access to these resources provided they meet the conditions. It should be noted that the resources must be allocated to working capital and may be used to generate liquidity by improving the financial conditions of the company's current liabilities.

The credit line under the name Colombia Emprende E Innova Contra los Efectos Económicos del COVID19, created by Circular 007 of 8 April 2020, by the National Government-iNNpulsa Colombia and Bancoldex's Business Growth Management Unit. The amount of the quota is approximately COP 6,000,000,000. The beneficiaries would be: (a) all companies in all economic sectors with a minimum of six and a maximum of ninety-six months' turnover; (b) the trustee of the above-mentioned companies. The resources are intended for raw materials, inputs, payroll, and other operating costs and expenses. Likewise, the resources may be used to generate liquidity by improving the financial conditions of the company's current liabilities, except for liabilities with partners or shareholders.

The Mayor's Office of Cúcuta and Bancoldex, also provide a preferential credit line with the same purpose of maintaining liquidity of companies with a quota of approximately COP 3,100,000,000. The beneficiaries of this line are all natural and legal persons considered as micro-enterprises. The resources will be exclusively to meet operating costs such as payroll, raw materials, inputs, and other operating costs and expenses.

Through Circular 009 of April 15, 2020, the Norte de Santander Department and Bancoldex, in order to anticipate the negative effects on the economic activity of the presence of COVID 19 in the country, have designed a preferential credit solution for maintaining liquidity of companies while overcoming the current situation. This line has a total quota of COP 12,000,000,000. It is aimed at all companies in all sectors domiciled in the Department of Norte de Santander. On the other hand, the resources must be exclusively for payment of payroll, raw materials, inputs, and other operating costs and expenses.

The Mayor's Office of Barranquilla and Bancoldex has also designed a preferential credit solution aimed at maintaining the liquidity of companies in the region. The Barranquilla line responds to the economic effects of COVID 19 with a total quota of COP 60,000,000,000. The beneficiaries of this line would be companies from all sectors domiciled in Barranquilla. The resources should be allocated to working capital, which includes payment of payroll, raw materials, inputs and other operating costs and expenses. They may also be used to replace, consolidate or re-profile the company's liabilities, without this component exceeding 40% of the maximum amount that each beneficiary may request, excluding liabilities with partners and liabilities with Bancoldex resources.

It should be noted that the Governor's Office of Caldas, the Mayor's Office of Manizales and Bancóldex have designed a preferential credit solution for the maintenance of the companies' liquidity. The amount of the quota varies approximately by COP 120,000,000,000 and whose validity would be until the exhaustion of the resources provided by that Government. This maximum quota is divided into quotas A and B: a) 72,000,000,000 for Manizales, b) 48,000,000,000 for other municipalities and the department of Caldas. The beneficiaries would be natural and legal persons, considered as micro, small, medium and large enterprises, of all economic sectors with main residence in the city of Manizales for the A quota, and in the other municipalities of the Department of Caldas for the B quota. Finally, it is important to highlight that the resources must be destined to the payment of payroll, rentals and other operating costs and expenses.

The Government of Antioquia and Bancoldex also designed a preferential credit line for the same purpose, with a total amount of COP 100,000,000,000. This overall amount is divided into quotas A and B: (a) COP 15,000,000,000 for Medellín and (b) COP 85,000,000,000 for other municipalities in Antioquia. The beneficiaries will be natural and legal persons, considered as micro and small enterprises, with their main domicile in the Department of Antioquia for the B quota and the city of Medellín for the A quota. The resources must be used to pay the payroll, rent, raw materials, supplies and other operating costs and expenses.

3. Colombia enters into a new Economic, Social and Environmental State of Emergency

Despite the measures adopted in Decree 417 of 2020 to address the adverse effects generated by the economic and social crisis caused by the COVID-19 pandemic, to this day new circumstances have arisen that make it necessary to keep the mandatory preventive isolation and surpass the effects anticipated in the above-mentioned decree. For this reason, a new State of Economic, Social and Ecological Emergency has been declared in the country for 30 days from the effective date of this Decree.

By declaring the State of Emergency, the President of the Republic is entitled to issue decrees with the force of law exclusively aimed at averting the effects of the crisis and preventing its further spread.

4. Colombia continues with its preventive mandatory isolation measure

The Ministry of the Interior ordered the extension of the mandatory isolation from May 11 to May 25, 2020, including new exceptions to the limitation of people circulation, to reactivate economic and social activities gradually.

Previously, Decree 593 provided 41 exceptions. This Decree entails 5 new exceptions for a total of 46 activities in which it will be possible to circulate, taking into account in each case the application of the biosecurity protocols ordered by the Ministry of Health and the measures taken in each municipality for the reactivation of the economy. The new activities allowed are:

1. Wholesale and retail marketing of building materials, hardware, locksmithery, glass products and paint.
2. The chain of production, supply, storage, repair, maintenance, transport, and distribution of the manufactures of (i) motor vehicles, trailers, and semi-trailers, (ii) motorcycles, (iii) furniture, mattresses and bedsteads.

3. The manufacture, maintenance and repair of computers, peripheral equipment, communication, electronic and optical equipment.
4. Retail of fuel, lubricants, additives and automotive cleaning products, books, newspapers, stationery, and office supplies.
 - Wholesale trade of furniture and household goods
 - Wholesale and retail trade of motor vehicles and motorcycles, including parts and accessories.
5. Home laundry service.

To start all the exempted activities, it is mandatory to comply with the biosecurity protocols established by the Ministry of Health and Social Protection for the control of the pandemic. This Decree allows mayors to add or suspend activities, as long as they have authorization from the Ministry of the Interior.

Additionally, measures are dictated for municipalities not affected by the Coronavirus COVID-19. The mayors of these municipalities may request the Ministry of the Interior to release the compulsory preventive isolation, and for this purpose, the Ministry of Health and Social Protection is required to certify the condition of being a municipality unaffected by the virus. However, under no circumstances may be allowed certain face-to-face activities, such as (i) events involving crowds of people, (ii) commercial establishments for recreation and amusement, for dance, leisure and entertainment and games of chance and betting, (iii) opening gastronomic establishments, they may only operate by means of electronic commerce, (iv) gyms, swimming pools, sports fields, sports centers, amusement parks and children's playgrounds, and (v) group sports. In this case, biosecurity protocols must also be complied with and it must be considered that those living in these municipalities may only go out to comply with some of the exempted activities.



Real time

May 16th, 2020

COVID-19:

Brigard Brigard
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Other measures include the application of teleworking when the presence of workers is not essential at the workplace, guaranteeing public services for land, cable, river and sea transport of passengers, postal services and parcel delivery, provided that they are necessary to deal with a health emergency, the suspension of domestic air transport for the length of the preventive isolation, the banning of the consumption of alcoholic drinks in open spaces and to ensure that the rights of medical staff are granted.

In case of non-compliance with the measures outlined in this Decree, it may lead to the imposition of fines and even prison sentences. It is important to highlight that Decree 593 of 2020 is repealed with the issuance of Decree 636.
