

Law Obligations

**COLOMBIA**

2  
0  
2  
3

## Commercial

- **Renewal**

1. Mercantile Registration.
2. Sole Registry of Bidders.

- **Assemblies and Board of Partners**

1. Appointment of Fiscal Auditor.
2. Preparation of the previous year's information and approval by the competent corporate body.

- **Filing and Registration**

1. Submission of financial statements.
2. Registration of control situation and business group.
3. Database registration.
4. Registration of web pages and internet sites of Colombian origin.

- **Surveillance**

1. Surveillance situation.

## Compliance

1. Self-monitoring and risk management policies against money laundering and financing of terrorism
2. Reports to the UIAF.
3. Report 50 - ML/FT to the Superintendence of Companies.
4. Business Ethics program.
5. Report 52 - PTEE to the Superintendence of Companies.

## Foreign Exchange

1. International Investment: Capitalizations, Modifications, Substitutions and Obligation to Cancel International Investment Registrations.
2. Handling of advances for future capitalizations.
3. Change in capital structure.
4. Compensation accounts.



## Labor

1. Certificates accrediting interest and monetary correction, paid during the immediately preceding year for purposes and effects of acquiring housing, and health and education payment certificates.
2. Certificates of income and withholdings.
3. Report to SENA.
4. Overtime authorizations.
5. Service bonus.
6. Vacation and overtime records.
7. Legal committees' Meetings.
8. Footwear and dress.
9. SG-SST implementation, annual assessment and updating of biosecurity protocols.
10. Actuarial calculation report.
11. Breastfeeding rooms.
12. Report of Vacancies to the Public Employment Service.
13. Biannual Workday for Family Purposes.
14. RUTEC Registry.
15. SIRE Registry.
16. Policy of disconnection from work.
17. Establish the working modality for employees (working from home, teleworking, remote work).
18. Teleworking policy (if applicable).
19. Gradual reduction of the maximum legal working schedule (1 hour as of July 2023). The Internal Working Regulations must be updated.
20. Affiliation and payment of social security contributions.

## Tax

1. Income tax returns.
2. Transfer pricing regime.
3. Validity of the electronic signature.

### Information to consider

Minimum legal monthly wage of 2022:  
COP\$1.000.000

Minimum legal monthly wage of 2023:  
COP\$1.160.000

Dollar exchange rate used in the document:  
COP\$4,802.48 equals US\$1.

### Commercial Obligations Calendar

23 24 25 26 27 28 29  
30 31

27 28

### March

MON	TUE	WED	THU	FRI	SAT	SUN
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24		26
27	28	29	30	31		

### April

MON	TUE	WED	THU	FRI	SAT	SUN
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Renewal of the Mercantile Registration.

Preparation of the previous year's information and approval by the competent corporate body.

Submission of general purpose financial statements.

Renewal of the Sole Registry of Bidders.

### May

MON	TUE	WED	THU	FRI	SAT	SUN
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

### June

MON	TUE	WED	THU	FRI	SAT	SUN
		1	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Submission of report on business practices.

Submission of consolidated or combined financial statements.



# COMMERCIAL OBLIGATIONS

Below please find the main procedures that companies and its partners/ shareholders are obliged to comply as per Colombian Law:

## RENEWAL

### 1. Renewal of the Mercantile Registration

The mercantile registration of commercial companies should be annually renewed by March 31<sup>st</sup>. This same procedure should be carried out for commercial establishments (agencies and branches) registered before the Chamber of Commerce. Please note that not renewing the mercantile registration may cause fines up to 17 current minimum legal monthly wages (for 2023 COP\$19,720,000, equivalent to US\$4,106). Not renewing the mercantile registration for 5 years has the following effects: (i) dissolution in the case of companies -inactivation of the registration- and (ii) deregistration in the case of commercial establishments. Furthermore, be informed that the mercantile registration is mandatory to perform any economic activities in Colombia. Failure to comply with this provision could lead to the imposition of the sanctions.



## 2. Renewal of the Sole Registry of Bidders.

The Sole Registry of Bidders (RUP) managed by the chamber of commerce should be annually renewed, on the fifth working day of April, at the latest, for the year 2023 will be April 7<sup>th</sup>. The non-renewal will trigger the loss of the effects of such registry. For renewal purposes, the form provided by the Superintendence of Industry and Commerce should be filed attaching the required annexes.

### ASSEMBLIES AND BOARD OF PARTNERS

#### 1. Appointment of Fiscal Auditor

According to the Colombian Law, it will be mandatory to have fiscal auditor when (i) the company's gross assets as of December 31<sup>st</sup>, of the preceding year reach or exceed 5,000 current minimum legal monthly wages (for 2022 COP \$5,000,000,000, equivalent to US\$ 1,041,128); and/or (ii) the company's gross income for the previous year reach or exceed 3,000 current minimum legal monthly wages (for 2022 COP\$3,000,000,000, equivalent to US\$ 624,677). Once it is determined that the company is obliged to appoint a fiscal auditor, it must adopt the corresponding measures so that the corresponding corporate body (the Shareholders' Assembly or the Board of Partners) meets and appoints the fiscal auditor for the corresponding period. Subsequently, the appointment of the fiscal auditor must be registered before the Chamber of Commerce. If this is the case, it is important to mention that the 2023 tax returns must have the signature of the tax auditor under penalty of having them not filed, likewise the financial statements as of December 31<sup>st</sup>, 2022, must be audited.



## 2. Preparation of the previous year's information and approval by the competent corporate body

The corporation is required to call and hold an ordinary meeting before March 31<sup>st</sup> of each year, at which the following must be submitted to the highest corporate body (board of partners or shareholders assembly) for approval: I) report prepared by the management; II) opinion of the statutory auditor; III) the general purpose financial statements as of December 31<sup>st</sup> of the previous year, audited by the statutory auditor of the corporation (or certified by the accountant if the corporation is not required to have a statutory auditor), together with its notes; IV) and, the proposed distribution of profits of the corporation. In the event that the company must submit consolidated or combined financial statements, these must also be approved at this meeting. The Board of Directors (when applicable) must consider such documents and approve the profit distribution project.

### FILING AND REGISTRATION

## 1. Submission of the financial statements

Colombian companies must submit a copy of the financial statements before the Chamber of Commerce of the corporate domicile within the month following the approval by the main corporate body (Board of Partners or Shareholders Assembly). The above-mentioned submission is mandatory except for companies obliged to file (electronically) said information before the Superintendence of Companies in the dates provided by the latter for such purpose through an application called XBRL Express. For 2023 such dates are provided in the External Circular No 100-000012 issued by the aforementioned entity on November 22<sup>nd</sup>, 2022. This document can be accessed in the following LINK.



Thus, the general purpose financial statements must be submitted between Tuesday, April 11<sup>th</sup> and Tuesday, May 9<sup>th</sup>, depending on the last two digits of the NIT of the entity. The consolidated or combined financial statements must be submitted no later than May 31<sup>st</sup>, 2023. Finally, the Report 42 on Business Practices must be submitted between Tuesday, May 16<sup>th</sup> and Tuesday, May 30<sup>th</sup>, depending on the last two digits of the NIT of the entity.

## 2. Registration of the control situation and business group

Whenever there is a control or business group situation, the controlling company must (i) execute a private document including information related to the control or business group situation and (ii) file said document before the chamber of commerce, within 30 days following the date that triggered the control or business group situation. Under a business group situation, the management shall report to the shareholder assembly or board of partners the relationships between the controlling company (or its subsidiaries) and the respective controlled subsidiary.

## 3. Database registration

Databases containing personal data that is processed in Colombia (e.g. employees, suppliers, clients, visitors, board members, shareholders) must be registered in the National Database Registry, administered by the Colombian Data Protection Authority (Superintendencia de Industria y Comercio). For companies and non-profit entities with assets exceeding 100,000 Tax Value Units (“UVT”) (for 2023 COP\$4,241,200,000, equivalent to US\$883,127). Information required for registering databases includes, but is not limited to, identification, location, and contact information of the company, purpose of the database, privacy policy, security measures and, in general, the implementation of documents to demonstrate compliance with the Colombian data protection regime. Non-compliance of this obligation may cause the imposition of fines of



up to 2,000 current minimum legal monthly wages (for 2023 COP\$2,320,000,000, equivalent to US\$483,083).

#### 4. Registration of web pages and internet sites of Colombian origin

Web pages and internet sites of Colombian origin that operate on the internet, whose economic activity is of a commercial, financial or service provision nature must be registered in the Merchant's Registry.

### SURVEILLANCE

#### 1. Surveillance situation

Companies whose assets or income, as of December 31<sup>st</sup> of the previous year, are above 789,390.6 Tax Value Units ("UVT") (for 2022 COP\$30,000,000,362.4, equivalent to US\$ 6,246,772) will be subject to the surveillance of the Superintendence of Companies. In such case, the obliged company must notify this situation within 15 business days as of date of the ordinary general shareholders meeting or partners meeting. Likewise, the company must pay the respective surveillance contribution liquidated by the Superintendence of Companies.





## Compliance

### 1. SELF-CONTROL AND RISK MANAGEMENT SYSTEM

Against Money Laundering, Financing of Terrorism and Financing de Proliferation of Weapons of Mass Destruction.

Colombian companies subject to the surveillance of the Superintendence of Companies with a gross income or total assets equal or exceeding 40,000 current minimum legal monthly wages (for 2023 COP \$46,400,000,000, equivalent to US\$9,661,674) as of December 31<sup>st</sup>, or that belong to the real estate; commercialization of precious metals and precious stones; legal services; accounting services, construction of buildings and civil work, virtual assets services and special supervised services or special regimes provided that they comply with the requirements established in Chapter X of the Basic Legal Circular (modified by External Circulars 100-000016 of December 24<sup>th</sup>, 2020 and 100-000004 of April 9<sup>th</sup>, 2021) of said entity, must implement a self-control and risk management system against money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction - SAGRILAFT (approved by the Board of Directors or maximum social body) before May 31<sup>st</sup> of the following year where the abovementioned threshold was exceeded or that being one of the aforementioned sectors, it met the requirements.

Failure to comply totally or partially to the requirements set forth in Chapter X of the Legal Basic Circular of the Superintendence of Companies may lead to successive fines up to 200 current minimum legal monthly wages (for 2023 COP\$232,000,000, equivalent to US \$48,308). Fines may be imposed to the compliance officer, statutory auditor, administrators, or the company itself.

### 2. REPORTS TO THE UIAF.

Companies obliged to implement SAGRILAFT, must present the following reports to the UIAF:



- **Suspicious Operation Report (“ROS”)**: This report must be reported immediately and once the Compliance Officer have determined that the Unusual Operation has not been clarified and should be classified as a Suspicious Operation. This report must be submitted through SIREL.
- **Absence of Suspicious Operation Report (“AROS”)**: If a quarter elapses without ROS been made or identified, the Compliance Officer must report this fact to the UIAF within the first 10 calendar days of the month following the expiration of the respective quarter, through SIREL. The reporting months are January, April, July and October.

If the company identifies asset or the presence of an individual and/or entity that is linked to a Colombian Binding List, the Compliance Officer must immediately report it to the UIAF through [cumplimientogafi67@uiaf.gov.co](mailto:cumplimientogafi67@uiaf.gov.co) and make it known to the Attorney General’s Office.

### 3. REPORT 50

ML/FT to the Superintendence of Companies.

Companies obliged to implement SAGRILAF in 2022 must fill out the Report 50- ML/FT risk prevention corresponding to the management of the year 2022 on the dates determined by the Superintendency of Companies.

### 4. BUSINESS ETHICS PROGRAMS

Are obliged to implement a Business Transparency and Ethics Program - PTEE for its acronym in Spanish, in accordance with the External Circular 100-000011 of 2021 of the Superintendency of Companies:

- Companies under surveillance of the Superintendency of Companies that have carried out international transactions of any nature and who have perceived an income or have assets equal to or greater than 100 current minimum legal monthly wages (for 2023, COP \$116,000,000 equivalent to US\$24,024) and whose total or active income or have assets equal to or greater than 30,000 current



minimum legal monthly wages (for 2023 COP\$34,800,000,000 equivalent to US\$7,246,256), as of December 31<sup>st</sup> of the previous year.

- Companies that have entered into contracts with state entities whose amount is equal to or greater (individually or jointly) than 500 current minimum legal monthly wages (for 2023, COP\$580,000,000 equivalent to US\$120,770) and that have total income or assets equal to or greater than 30,000 current minimum legal monthly wages (for 2023 COP\$34,800,000,000 equivalent to US\$7,246,256), as of December 31<sup>st</sup> of the previous year.
- Companies that meet all the requirements established for the pharmaceutical, infrastructure and construction, manufacturing, mining-energy, information and communication technologies, trade in vehicles, their parts, and auxiliary financial services activities.

Companies that meet all the requirements, will be under the obligation of implementing an Ethics Program previously approved by the Board of Directors or maximum corporate body by May 31<sup>st</sup> of the following year in which they met the criteria described above.

Failure to comply totally or partially to the requirements set forth in Chapter XIII of the Legal Basic Circular of the Superintendence of Companies may lead to successive fines up to 200 current minimum legal monthly wages (for 2023 COP\$232,000,000, equivalent to US\$48,308). Fines may be imposed to the compliance officer, statutory auditor, administrators, or the company itself.

## 5. REPORT 52

### PTEE to the Superintendence of Companies.

Companies obliged to implement PTEE in 2022 must fill out the Report 52 - transnational bribery and corruption risk prevention corresponding to the management of the year 2022 on the dates determined by the Superintendency of Companies.



## Foreign Exchange

### 1. INTERNATIONAL INVESTMENT:

#### Capitalizations, Modifications, Substitutions and Obligation to Cancel International Investment Registrations.

According to the international investment regime in force in Colombia, local companies may be capitalized by foreign investors through the transfer of foreign currency into the country via the foreign exchange market. When foreign currency is wired and converted into local currency it must be transferred through an exchange market intermediary or a compensation account, with the submission of an exchange declaration for international investments. The investment must be filed before the Colombian Central Bank using an international investments foreign exchange form.

Foreign investments may also be performed in local companies through contributions sourced in any form of licit operation or contract (i.e. in-kind contributions, know-how, etc.) which leads for an investor to gain shares in a local company. These types of investments must be registered before the Central Bank by means of an international investment registration form, which may be electronically filed at any time, using the new system of registration of international investments before the Colombian Central Bank.

Foreign exchange regulations provide that it is mandatory for foreign investors to register the capital movements in Colombian companies (e.g. change in the entitled foreign investor due to transfers of shares, mergers or spin-offs abroad, changes in receiving companies and changes in foreign investors corporate purposes, or modifications to the investment's destination) and cancel the registration when applicable (e.g. sale to residents in the country, international merger, spin-off and reduction of capital, among others).

In the event of substitution or the cancellation of the foreign investment due to a change of the holder of such investment, the foreign exchange regulation requires such request to be filed before the Colombian Central Bank jointly by the transferor and the transferee within the six (06) months following the transaction that causes the registration. The



request of substitution or cancellation of the foreign investment may be filed by the international investor or the legal representative of the local company, in any case using the international investment registration new system of the Colombian Central Bank.

Depending on the type of transaction to be reported, it will be necessary to electronically submit in the Colombian Central Bank new international investment registration system the Declaration of Registration of International Investments, and/or Declaration of Registration of Cancellation of International Investments.

These proceedings must be formalized directly in the new system of registration of international investment provided by the Colombian Central Bank, and the registration is automatic (is not subject to authorization or formal issuance by the Colombian Central Bank). To comply with these proceedings is required to make a formal prior registration of the corporation or the international investors and be approved to act on their behalf by the Colombian Central Bank (this authorization can take about 3 or 4 weeks).

## **2. HANDLING OF ADVANCES FOR FUTURE CAPITALIZATIONS**

The amounts transferred to the country as advances for future capitalizations received as of July 2017, must be registered before the Colombian Central Bank as foreign indebtedness. This registration is performed by filing Form 6 “Report of External Indebtedness Granted to Residents in Colombia” through a foreign exchange market intermediary with the documents which support the operation.

This procedure is also applicable whenever a Colombian investor wants to perform capital contributions to companies domiciled abroad. These contributions will have to be registered before the Colombian Central Bank by means of a Form 7 “Report of Foreign Indebtedness Granted to Non-Residents” which must be filed through a foreign exchange intermediary along with the supporting documents. All resources to be disbursed as advance for future capitalizations must be reported using a foreign loan exchange form.

There is currently no legal term to capitalize advances received. Once the capitalization is performed, it must be registered before the



Colombian Central Bank using a foreign investment registration form (Form 11), which may be electronically reported in the new international investment registration system of the Colombian Central Bank as described in section 11.

### 3. CHANGES IN CAPITAL STRUCTURE

The capital changes (transactions including the change in the nominal value that result in changes to the total number of shares or quotas) in a company receiving foreign investments, must be informed to the Central Bank.

### 4. COMPENSATION ACCOUNTS

Colombian residents can open bank accounts abroad. However, whenever such accounts are used to complete mandatorily traded foreign exchange transactions (import and export of goods; foreign indebtedness operations; foreign investments; guarantees and collateral in foreign currency; derivatives transactions and payments | two residents in foreign currency), the account must be registered with the Colombian Central Bank as compensation account. Once the account is registered as compensation account, it is subject to periodic reports before the Colombian Central Bank (monthly report) and the Tax Authority - DIAN (quarterly report). The aforementioned reports must be made regardless of whether the bank account has had any movements.



# LABOR OBLIGATIONS

In addition to the obligation to pay the value corresponding to the severance interest (until January 31<sup>st</sup>, 2023) and to deposit the severance payments corresponding to the year 2022 in the fund that each of the employees has chosen (before February 14<sup>th</sup>, 2023), any employer shall comply, among others, with the following labor obligations:

## 1. Certificates accrediting interest and monetary correction, paid during the immediately preceding year for purposes and effects of acquiring housing, and health and education payment certificates.

The company should ask those employees who have housing loans for certificates accrediting the interest paid, so that it can update/recalculate the tax benefit. In addition, the company should request health and education payment certificates corresponding to the last year. The company should collect this information by April 15<sup>th</sup>, 2023.

Furthermore, the company should ask its employees to provide a certificate to apply the tax dependent deduction set forth in Section 387 of the Colombian Tax Code. It is advisable that the company collects this information by April 15<sup>th</sup>, 2023.



## 2. Certificates of income and withholdings

Every year, the company should provide its employees with a detailed list of payments made for all labor matters, together with the amount withheld in the immediate previous year on account of income taxes. This income and withholdings certificate should be issued by March 31<sup>st</sup>, 2023 and should be retained for a period of at least 5 years from the date on which it is issued.

## 3. Report to SENA

The company must establish, according to the legal parameters, the quota of apprentices that it should have and engage them in the company or pay the applicable quota. In addition, the company must inform to the Servicio Nacional de Aprendizaje - SENA within the first 10 working days of July and January or March and September, any variation in the payroll of the employees that affects the minimum number of apprentices applicable for the company.

## 4. Overtime authorization

Employers must require prior authorization of the Ministry of Labor once a year if their employees work overtime.

## 5. Service bonus

The service bonus is a legal fringe benefit equal to one monthly salary for each year of service. An initial 50% must be paid in June (no later than June 30<sup>th</sup>) and the remaining 50% in December (no later than December 20<sup>th</sup>) of each year.







## 6. Vacation and overtime records

The company should keep a special vacation registry, in which it should record the date when each worker commenced its employment relation with the company, the annual vacation, and the compensation received thereof. In the case of overtime work, the record must contain age, gender, and activity, number of hours worked indicating whether they are day or night, and the liquidation of the surcharge.

## 7. Legal committees' reunions

The Occupational Health and Safety Peer Committee (once a month) and Coexistence Committee (every 3 months) must reunite and keep a record of the minutes of the meetings.

## 8. Footwear and dress

In accordance with the duty for which the employee was hired for, three times a year (no later than April 30<sup>th</sup>, August 31<sup>st</sup>, and December 20<sup>th</sup> of each year), the employer has to provide an endowment of one pair of shoes and one labor dress. Employees entitled to this benefit are the ones that earn up to twice the current minimum legal monthly wage (for 2023 COP\$2,320,000, equivalent to US\$483) and that have been employed for at least 3 months.

## 9. SG-SST Implementation, annual assessment and updating of biosecurity protocols

Companies must apply the evaluation according to the Minimum Standards, formulate the Improvement Plan and the Annual Plan of Occupational Safety and Health Management System for 2023. The entire SG-SST must be documented and comply with 100% of the requirements

established in the Resolution 312 of 2019, considering that the Ministry of Labor will initiate surveillance and control over the implementation of this system.

The Labor Risk Administrators will provide advice, training, and technical assistance in the different phases of implementation of the SG-SST. Likewise, they will report to the Ministry of Labor every six months about the degree of implementation of the SG-SST of the Company.

The Company must implement the biosecurity protocol, according to the parameters established by the National Government. Currently, the latest regulation in this regard is Resolution 1238 of 2022.

## 10. Actuarial calculation report

All entities obliged to recognize and pay directly pensions and/or issue pension bonds, must at the end of each period, prepare an actuarial calculation in order to establish the present value of all future obligations regarding these matters. This report shall be submitted to the Superintendence of Companies.

## 11. Breastfeeding Rooms

Employers with capital above 1.500 current minimum legal monthly wages (for 2023 COP\$1,740,000,000, equivalent to US\$362,349), or more than 50 female employees, must provide a respectable space within its facilities, for lactating employees to extract maternity milk during working hours, under technical safety standards, to later transport it home.

## 12. Report of Vacancies to the Public Employment Service

It is an obligation of all employers to report every vacancy opening in their payroll, through a vacancy report to the Public Employment Service. This report must be submitted within the 10 business days following the opening. No report



must be submitted for those positions that, due to their nature, are strategic or confidential.

### 13. Biannual Workday for Family Purposes

Employers shall enable, promote and manage a bi-annual workday in which their employees can share with their families at spaces provided by the employer, or operated by the Family Compensation Bureaus to which employees are affiliated. If the employer does not manage to enable this session, it shall allow employees to have this space with their families without affecting remunerated resting days, and without prejudice of the agreement on a complementary (flexible) working schedule.

### 14. RUTEC Registry

The registration of foreigners in the RUTEC registry of the Ministry of Labor is mandatory for all entities of the public sector and private sector companies that engage or hire foreign personnel within Colombian territory. Registration in RUTEC must be done within a period not exceeding 120 calendar days following the execution of the contract or from the engagement date of the foreign worker.

### 15. SIRE Registry

The hiring of foreign employees shall be reported at the Integral Report System of Migración Colombia ("SIRE"). This, mainly to monitor foreign contracting practices.

### 16. Policy of disconnection from work

It must be guaranteed the disconnection from work of employees. To this end, employers must implement a policy.



### **17. Establish the working modality for employees (working from home, teleworking, remote work)**

Define the modality in which employees will provide services: on-site, distance work (remote work/teleworking/working from home) or hybrid. The employer must define an internal policy in case of having employees working remotely.

### **18. Teleworking policy (if applicable)**

An internal teleworking policy shall be adopted and published. This policy shall be published virtually and shall have, at least, the list of positions that can perform their functions through teleworking, conditions on the confidentiality of information and contacts for handling workplace harassment issues.

### **19. Gradual reduction of the maximum legal working schedule (1 hour as of July 2023). The Internal Working Regulations must be updated**

As of July 2023, the maximum legal working schedule of 48 hours per weeks shall be reduced in 1 hour (this is: 47 hours per week). If applicable, employers shall update the Internal Working Regulations.

### **20. Affiliation and payment of social security contributions**

Affiliate the Company (as employer) to the Social Security System, specifically to (i) a Labor Risks Administrator (“ARL”); and (ii) Family Compensation Fund (“CCF”).



Likewise, employers shall affiliate new employees to (i) Health Promoting Entities (“EPS”), as from the hiring date; (ii) ARL, at least 24 hours before the hiring date; (iii) Pension Fund Administrator (“AFP”), as from the hiring date; (iv) CCF, as from the hiring date.

The Company must also perform monthly contributions to the Social Security System in the following percentages:

- **ARL:** Between 0.5% and 6.9% of the employee’s monthly salary if it is ordinary salary. If it is an integrated salary, the contribution is calculated on 70% of the amount of the agreed salary. The contribution must be paid exclusively by the Company. The higher the risk, the higher the percentage.
- **EPS:** The Company pays 8.5% (if applicable) and the employee pays 4% of the amount of the ordinary salary; or 70% of the amount of the integral salary.
- **AFP:** The Company pays 12% and the employee pays 4% of the amount of the ordinary salary; or 70% of the total salary.
- **Pension Solidarity Fund (“FSP”):** This contribution is made by employees earning more than 4 legal monthly minimum salaries in force and varies between 1% and 2% of the amount of the ordinary salary; or 70% of the total salary, depending on the employee’s monthly income.
- **Payroll Taxes:** The Company pays all contributions, specifically 9% of the monthly payroll (4% to the CCF, 3% to the ICBF and 2% to the SENA). This obligation does not arise with respect to employees earning up to 10 legal monthly minimum salaries, in such case the contribution will be only 4% and will be destined to the corresponding CCF.



## Tax

From a tax standpoint, companies incorporated in Colombia must comply with a series of substantial and formal obligations depending on the particular situation and characteristics of the corporate entity. For purposes of this letter, we call your attention of the following:

### 1. INCOME TAX RETURNS

Colombian companies and entities are subject to income tax on their income from Colombian and foreign sources. On the other hand, foreign companies and entities are only taxed on their income from a national source.

The deadlines to file and pay the income tax were established by means of the Decree 2487 of 2022.

### 2. TRANSFER PRICING REGIME

According to the Colombian transfer pricing regime, taxpayers that carry out controlled transactions with foreign related parties or related parties located in Colombian free trade zones, must file a transfer pricing return if (i) gross equity (i.e., total assets) for FY 2022 is equal to or greater than COP\$3,800,400,000 (equivalent to US\$803,581), or (ii) gross income for FY 2022 is equal to or greater than COP\$2,587,132,000 (equivalent to US\$547,039). They must also submit the transfer pricing documentation, consisting of the Local Report and the Master Report, in case they comply with the limits established to be obliged to submit the information statement and at least one same type of operation as of December 31<sup>st</sup>, 2022, is equal to or greater than COP\$1,710,180,000 (equivalent to US\$361,611). The due dates to file the transfer pricing return and supporting documentation for FY 2022 expire in September 2023.

Note that income taxpayers that carry out transactions with persons, companies or entities located or domiciled in non-cooperative and low tax jurisdictions must file a transfer pricing return, regardless of the



amount of equity or income. They also will have to file the transfer pricing supporting documentation if the total amount of transactions for FY 2022 is equal to or greater than COP\$380,040,000 (equivalent to US\$80,358).

Additionally, certain taxpayers may be required to submit the Country-by-Country Report if its group's gross revenue for FY 2022 is equal to or greater than COP\$3,078,324,000,000 (equivalent to US\$650,900,656). Such Report must contain information regarding the global allocation of income and taxes paid by the multinational group, along with certain indicators related to its economic activity at a global level, among other relevant information. The due dates to file the Country-by-Country Report for FY 2022 expire in December 2023. Notwithstanding, note that there are several exceptions to this obligation that must be analyzed on a case-by-case basis.

### **3. ELECTRONIC SIGNATURE INSTRUMENT**

Per sections 2 and 4 of Resolution 70 of 2016 issued by the DIAN, the Electronic Signature Instrument (ESI) system is valid for 3 years since the date of issuance or renewal of the ESI is completed. According to the migration schedule of the Digital Mechanism to the ESI, the first dates ended in November and December 2016, so the first expirations already began to apply. We suggest an internal confirmation of the deadline in your case for this renewal process. This verification is very important since the deadlines for withholding tax and VAT are approaching and, if the ESI is not renewed in time, there could be complications in their submission.

If you are still on time for the renewal procedure it may be carried out through the DIAN's Website. Otherwise, the procedure must be carried out personally or with a third party duly authorized for such purpose at the contact points of the DIAN. In case you need assistance, we will be very happy to help you.



Brigard  
Urrutia

Please do not hesitate to contact us should you have any queries about the matters referred above. We will be pleased to assist in any requirements you may have.

This document summarizes some of the legal obligations of companies under Colombian Law. In case you require to perform any of the actions mentioned in this report, please contact any of the lawyers of the firm.

Sincerely,

**BRIGARD & URRUTIA ABOGADOS S.A.S**

