



Dear Clients,

The Central Bank modified last May 22<sup>nd</sup> the External Regulatory Circular Letter DCIN-83 in the following aspects:

## 1. DATION IN PAYMENT

### 1.1 For import financing

Financing obligations of imported goods may be discharged by means of dation in payment. This operation no longer requires prior authorization from the Central Bank. The importer will have to complete the exchange declaration for import of goods (Form No. 1) stating the amount in dollars held to be paid by using the exchange item 2026 “dation in payment of import of goods”. Even though the circular letter does not say it, the Central Bank is supposed to be informed so that it may in turn inform foreign exchange regime monitoring and control authorities.

### 1.2 For export financing

Financing obligations of exports may be discharged by means of dation in payment. This operation no longer requires prior authorization from the Central Bank. The exporter will have to complete the exchange declaration for export of goods (Form No. 2) stating the amount in dollars held to be paid by using the exchange item 1044 “dation in payment of export of goods”. Even though the circular letter does not say it, the Central Bank is supposed to be informed so that it may in turn inform foreign exchange regime monitoring and control authorities.

### 1.3 For reported or registered loans

Loan obligations reported or registered as foreign indebtedness may be discharged by means of dation in payment. This operation no longer requires prior authorization from the Central Bank. The resident debtor or creditor will have to send electronically through a Foreign Exchange Market Intermediary or directly, if the same owns an equalization account, the “report of disbursements and payment of foreign indebtedness operations” (form No. 3 A) to the Central Bank in order to apply the amount held as paid. The registered obligation is thus cancelled.

In the three preceding cases, the Central Bank will forward such details for informational purposes to the foreign exchange regime performance monitoring and control authority (DIAN or Superintendence of Business Companies). The documents evidencing such transaction should be retained in case the same are requested by the foreign exchange regime monitoring and control authority.

## 2. IMPOSSIBILITY OF PAYMENT

When debtors or creditors are not legally able to fulfill the payment obligation in connection with foreign indebtedness operations (force majeure, act of God, inexistence or unenforceability) the same will not be enforced.

The loan will be cancelled at the Central Bank by filing Form No. 3 A (Report of Disbursements and payment of foreign indebtedness operations). If filing of the same is made through a Foreign Exchange Market Intermediary, it is necessary to produce before the same a certificate from the



statutory auditor or certified account evidencing cancellation of the account to be paid or collected. If the holder of the same has an equalization account, the certification will be retained in case the monitoring and control authorities request the same.

In such event, the Central Bank will also inform the foreign exchange monitoring and control authority.

It is necessary to take into account that foreign exchange regime monitoring and control authorities may also request at any time information in connection with the operation reported by the Central Bank and eventually open an investigation and levy any penalty, if applicable.

### 3. REPORTS TO THE CENTRAL BANK

#### 3.1 Colombian Companies and Branches under the General Foreign Exchange Regime – Equity Reconciliation – Form No. 15

Colombian companies where foreign investors hold interests, in any percentage and branches of foreign companies under the general foreign exchange regime are required as provided in the External Regulatory Circular Letter DCIN-83 from the Central Bank to report to such entity by June 30<sup>th</sup> at the latest and electronically transmit the duly completed Form No. 15.

However those companies or branches under obligation of presenting financial statements to the Superintendence of Business Companies are not required to complete this report.

#### 3.2 Branches under the Special Foreign Exchange Regime Form No. 13

On the other hand, branches of foreign companies under the special foreign exchange regime are required under all circumstances to submit to the Central Bank by June 30<sup>th</sup> at the latest, the duly completed Form No. 13 (Supplemental Investment to Assigned Capital and Update of Equity Accounts – branches under the special regime).

This report should be filed even if there were no movements in the supplemental investment account.

Sincerely yours,

**SANCLEMENTE FERNÁNDEZ ABOGADOS**

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