LATAM COVID-19 Task Force - Challenges and Responses: Latin America, United States and Europe

March 30, 2020

AUTHORS

Maria-Leticia Ossa Daza | David Mortlock | Jorge H. Kamine | Anna Martini G. Pereira

The outbreak of COVID-19 is causing disruption across the world. What are the challenges and issues that companies are facing and what are we seeing in Latin America, the United States and Europe? We have asked our colleagues in Argentina, Brazil, Central America, Chile, Colombia, Ecuador, Mexico, Peru, Spain and Venezuela to join our effort in creating this LATAM COVID-19 Task Force to help clients navigate through this crisis and to share their thoughts and views on it. As the situation, and measures taken by the governments, are rapidly evolving, we are following along closely and look forward to having an active conversation with you and hearing about any concerns and questions you may have. For this purpose, we have created an email address to which you can direct your questions - LATAMCovid19@willkie.com.

You can access all of Willkie's COVID-19 publications at our COVID-19 Resource Center.

United States – Willkie Farr & Gallagher LLP

Unprecedented times call for unprecedented actions. The continued proliferation and severity of the COVID-19 outbreak has prompted U.S. local and state governments to adopt extraordinary shutdown measures to slow its spread (and flatten the curve). These measures include "stay at home" orders that require individuals to stay at home (exceptions are made for essential needs and critical jobs), and orders requiring non-critical infrastructure or non-life sustaining businesses to shut down. A majority of the states in the U.S. currently have workplace shutdowns in place and we expect that number to continue rising within the coming weeks.

LATAM COVID-19 Task Force - Challenges and Responses: Latin America, United States and Europe

Since the beginning of the outbreak, the federal government has been announcing a variety of measures to limit the impact of the virus on businesses, employees and the economy in general. Such measures come in the form of financial relief packages, tax extensions and reduction in examination activities. The president has just signed into law a $2 trillion COVID-19 relief bill, which will provide support to businesses and significant tax breaks.

As of March 26, 2020, the U.S. became the country with the most confirmed cases of COVID-19.

Unprecedented Times Call for Unprecedented Measures: Read full article ›

Willkie COVID-19 Resource Center ›

Maria-Leticia Ossa Daza

David Mortlock

Jorge H. Kamine

Anna Martini G. Pereira

Argentina – Marval O’Farrell & Mairal

In the framework of the declaration of the pandemic declared by the World Health Organization derived from COVID-19, Argentina has begun mandatory preventive social isolation, which restricts people to their homes. This quarantine has been in effect since Friday, March 20 and has initially been planned to remain in effect until March 31, and later extended until April 13, even though there is a possibility that it will be further extended. People are able to leave their homes to shop for basic goods, like food and medicine. The quarantine will be enforced by security officials. No cultural, recreational, sporting, religious or any other type of event involving the attendance of persons may be held. The opening of stores, shopping centers, wholesale and retail establishments, and any other place that requires the presence of people is suspended. There are exceptions for certain industries, such as food, health and telecommunications.

This new regulatory framework affects social and business activities in Argentina, and it is expected that such regulations will undergo periodic modifications.

Read COVID-19 Publications ›

Hernán Slemenson | Pablo S. Cereijido

Brazil – Lefosse Advogados

Brazil declared a state of emergency on Friday, March 20, 2020. The advance of the pandemic of COVID-19 in Brazil has generated an environment of changing operational routines, uncertainties and market volatility. Due to the necessity of an efficient response, the Federal Government announced and gradually passed a package of emergency measures to help the most affected sectors in the midst of the crisis. As a result, the initial expert recommendations for people to stay at home have been replaced by increasingly restrictive measures from the government authorities and regulatory agencies.

The rapidly evolving environment means that we cannot look too far ahead to predict what will happen next. As the pandemic paralyzes businesses, local companies across the various sectors are assessing its impact and taking more immediate mitigation measures. In this regard, our team has prepared certain written materials on issues that clients should be considering in the short term.

Such issues include, among others, guidance on how to prepare a strategy for managing your financial and contractual exposure to potential liabilities.

COVID-19 Management of financial and contractual liabilities. Read key developments and insights related to COVID-19 ›

Gonçalo Capela Godinho | Carlos Barbosa Mello

Central America – BLP Legal

COSTA RICA – BLP ABOGADOS

Costa Rica declared a state of national emergency on March 16, 2020, which prevents the arrival of foreigners and suspends lessons in all educational centers in the country, as well as a mandatory isolation for those who enter the country. Vehicle restriction circulation has been established and the government has activated "PROTEGER", a plan with a value of a 1 trillion colones to deal with consequences of COVID-19. Tax relief laws have been approved on the payment of Value Added Tax, partial payments of the profit tax, the selective consumption tax, and the taxes to nationalize merchandise. In addition, for April, May and June 2020, labor authorities have approved the temporary reduction of working hours and wages through an emergency declaration.

Regulatory Framework Based on COVID-19 - Costa Rica
Read full article ›

EL SALVADOR – BLP ABOGADOS

El Salvador declared a State of Emergency on March 14, 2020. A State of Constitutional Exception was granted in which the rights of mobility and reunion were suppressed in order to contain the advance of the COVID-19 pandemic. On March 21, 2020, the President of El Salvador ordered a national mandatory household quarantine, which restricts people from leaving their homes, and they are only able to go out to shop for food, medicine and essential goods. Also, the closure of all shopping centers and retail establishments was ordered, as well as gatherings of any kind. Quarantine is being enforced by security officials. The National Congress is currently working on temporary measures to relieve the economic impact of the pandemic in the country.

Regulatory Framework Based on COVID-19 - El Salvador
Read full article ›

GUATEMALA – BLP ABOGADOS

On March 6, 2020, Government Decree 5-2020 was published by the President of the Republic, Alejandro Giamattei, in which he declared a State of Calamity throughout the national territory for 30 days as a result of the WHO pronouncement of COVID-19 as a public health emergency of international importance. The decree limited the constitutional rights of freedom of action, freedom of movement, freedom of assembly, and freedom to strike for state workers, and empowered the president to take the necessary measures to contain the pandemic. The Government Decree 5-2020 was modified by the Government Decree 6-2020 by which the freedom of free movement of people was limited with exceptions from 4 pm to 4 am the following day. On March 25, 2020, the president, through Government Decree 7-2020, extended the State of Calamity established by Government Decree 5-2020 for an additional 30 days.

Regulatory Framework Based on COVID-19 - Guatemala
Read full article ›

HONDURAS – BLP ABOGADOS

On February 10, 2020, the Honduran government issued Executive Decree PCM-005-2020 in which it declared a state of sanitary emergency, however, it was not until March 16, 2020 that constitutional guarantees such as: free movement, freedom of association and freedom of expression were restricted. An absolute curfew was established in Honduras where movement and any act in which a group of people can gather is prohibited in order to prevent the spread of COVID-19. Said measures were initially adopted for a period of seven days, afterwards extended until March 28, 2020 through Executive Decree PCM 22-2020. Notwithstanding the foregoing, there are exceptions in place in order to allow citizens free movement to satisfy basic needs, such as purchases in pharmacies, food procurement and fuel supply, as well as attending to medical emergencies within Honduran territory.

Regulatory Framework Based on COVID-19 - Honduras
Read full article ›

NICARAGUA – BLP ABOGADOS

As of March 27, 2020, the Nicaraguan government had not declared a state of emergency nor had issued any general decree with measures to mitigate the spread and potential impact of COVID-19. Earlier in the week, a commission formed by the Labor Ministry, the Free Trade Zone Commission and Free Trade Zone representatives signed an agreement with general recommendations. The government, via the office of the Vice-Presidency and Ministry of Health, has addressed the public on several occasions with recommendations such as hand-washing and general hygiene.

Regulatory Framework Based on COVID-19 - Nicaragua
Read full article ›

Read COVID-19 Publications ›

David Gutiérrez

Chile – Barros & Errázuriz

On March 18, 2020, President Sebastián Piñera declared a state of constitutional exception, the “State of Catastrophe”. Said state of exception, which is expected to affect the entire national territory, began at midnight March 19, 2020, and will last for at least 90 days. COVID-19 cases have reached more than 1,600 and there are more than 50 people hospitalized. Chilean lawmakers have voted to postpone a much-anticipated referendum on a new constitution as safety concerns around the COVID-19 outbreak take precedence over politics. The vote on rewriting the country's Pinochet-era constitution was originally due to take place on April 26, 2020 – a date that the country's health ministry now predicts will be the height of the virus outbreak in the country. Lawmakers have set the new referendum date for October 25, 2020.

COVID-19 In Chile: Barros & Errázuriz Report: Read full article ›

Pablo Guerrero

Colombia – Brigard Urrutia

Colombia's President Ivan Duque declared a state of emergency on Tuesday, March 17, 2020, for a term of 30 calendar days (Decree 417 of March 17, 2020). In addition, Colombia started a mandatory nationwide quarantine as of Tuesday, March 24, 2020 and has approved a number of decrees, which include exceptional measures to stop the spread of COVID-19 and mitigate the social and economic impact of the pandemic.

COVID-19: Colombia Legal Update: Read full article ›

Jaime Robledo Vásquez | Sergio Michelsen Jaramillo

Ecuador – Pérez Bustamante & Ponce (PBP)

To prevent and control the spread of COVID-19 in Ecuador, President Lenín Moreno declared a national state of emergency (Decree 1017) in effect since March 16, 2020, initially for a 15-day term. This decree sets out restrictions on movement and freedom of association and assembly across the country.

This declaration has led to legal measures taken by the government for critical areas at this moment, such as health, labor and tax, focused on mitigating the social and economic impact that this crisis is having in Ecuador.

Read COVID-19 Publications ›

Diego Pérez Ordoñez

Mexico – Mijares, Angoitia, Cortés y Fuentes, S.C.

On February 28, 2020, the Mexican Ministry of Health officially confirmed the first case of COVID-19 in Mexico. Since that date, the number of confirmed cases has increased to a total of 585 as of March 26, 2020. Mexico's President Andrés Manuel López Obrador declared a phase 2 state of emergency on March 23, 2020, for a term of 30 to 40 calendar days. This phase 2 includes the adoption of a series of actions and measures to slow down the spread of COVID-19. In addition, the Mexican Ministry of Health, along with the Mexican Ministry of Labor, has issued several legal provisions in order to prevent COVID-19 in work centers, most of which are relevant for the employment relationships in Mexico. The most significant of these provisions was issued on March 24, 2020, when the Mexican Ministry of Health enacted a decree by means of which preventive measures were imposed on employers and employees in order to control the health risks originating from COVID-19, including the temporary suspension of public, social and private activities that involve physical gatherings, displacements or movement of individuals, except for the activities of companies or establishments that are essential to address and respond to the health contingencies and cases in which employees are able to continue rendering their services remotely. The Securities and Banking Commission has also enacted a decree that would allow for the issuance of special accounting criteria applicable to Mexican banking institutions, on a temporary basis, with respect to consumer, housing and commercial loans, in order for such institutions to be able to grant relief for clients whose source of revenue is affected by the measures adopted by the authorities to control the COVID-19 outbreak. The measures adopted in Mexico, both by governmental authorities and the private sector, will have a direct impact on companies in all sectors and have raised various questions regarding potential exceptions to the fulfilment of contractual obligations and the corresponding enforceability of rights.

COVID-19 in Mexico: Read full article ›

Pablo Mijares | Martin Sánchez

Peru – Rebaza, Alcázar & De las Casas

The Peruvian government was one of the first in Latin America to take extraordinary measures to prevent proliferation of COVID-19. As a consequence, a total shutdown of business was ordered (with very limited exceptions: essential needs and critical jobs). A “stay-at-home” decree was also issued and it includes a curfew at night to control the spread of the disease and help prevent a collapse of the health system. Several businesses have also implemented work-from-home policies, though that is not an option for certain businesses.

Since the shutdown, the government has been enacting several laws and regulations to lessen the impact of the crisis on the economy and employment. Such laws and regulations include tax, financial, employment and financial benefits, as well as payments distributed to low income citizens.

State of Emergency COVID-19: Legal Implications and Coping Strategies: Read full article ›

Alberto Rebaza | Felipe Boisset

Spain – Pérez-Llorca

On Saturday, March 14, 2020, a Royal Decree declaring a state of emergency as a response to the public health crisis caused by COVID-19 was passed. The declaration of the state of alarm (which will continue in force until at least April 11,

2020) affects all Spanish territories, limits freedom of movement and has established a variety of measures, all of which are aimed at protecting health. These measures include, among others: (i) measures to strengthen the National Health System; (ii) measures to ensure and guarantee the supply of goods and basic services; (iii) transport and customs measures; (iv) containment measures in different areas; (v) measures limiting personal freedoms; and (vi) expropriation measures and compulsory personal service.

The impact that COVID-19 is having on the population and the measures taken following the declaration of the state of alarm are affecting many economic sectors of the country. For this reason, on March 17, 2020, a Royal Decree-Law was passed which establishes a range of new measures. These measures seek to support employees, families and vulnerable groups, establish additional employment and economic measures that aim to make temporary adjustment mechanisms more flexible to avoid redundancies, and offer a liquidity guarantee to support economic activity in the face of short-term difficulties arising from the situation.

The economic and employment measures feature the following key points: (i) the opening of a guarantee facility of up to EUR 100 billion managed by the Official Credit Institute, to facilitate the preservation of employment and to guarantee access by companies and by self-employed individuals to financing from financial institutions; (ii) the protection of Spanish companies in strategic sectors from foreign investments and from specifically restricted investors; (iii) corporate measures which permit virtual general shareholders meetings, virtual board of directors meetings, and the deferral of certain deadlines for annual accounts and financial reports; (iv) the temporary suspension of contracts and the reduction of working time due to force majeure or objective reasons, and the right of employees to adapt their timetable and reduce their working day; (v) the temporary suspension of the duty to file for voluntary insolvency, the temporary inadmissibility of requests by creditors for declarations of insolvency, and the suspension of deadlines for applying for a moratorium in negotiations with creditors; (vi) the deferral of certain tax debts, the suspension of certain tax deadlines and the interruption of the statute of limitations and expiration in relation to tax matters; and (vii) the prohibition on transactions in securities and financial instruments that involve the creation or increase of net short positions in shares admitted to trading on Spanish stock exchanges for a period of one month.

The principle of freedom of movement of capital and economic transactions abroad is suspended in a number of sectors and investors, in which foreign direct investments in Spain become subject to a prior authorization regime. This measure affects foreign direct investment in Spain by investors resident in countries outside the EU and the EFTA where (i) as a result of the investment, the investor will gain ownership of 10% or more of the Spanish company’s capital; or (ii) as a consequence of the corporate transaction, act or legal transaction, the investor will effectively participate in the management, or will take control of the company.

Sectors affected by this measure are strategic sectors, including (i) critical infrastructures (e.g., energy, transport, water, healthcare, communications, media, data storage, defense, finance, etc.), (ii) critical technologies and dual-use items, (iii) fundamental supplies (including energy and supplies affecting raw materials or food safety), (iv) sectors with access to sensitive information (including personal data), affecting public order, healthcare or security, and (v) media. Other foreign investments in which liberalization is suspended (irrespective of whether the investment will take place in one strategic sector) are those made by specifically restricted investors, i.e., (i) investors controlled by a government of other countries, (ii) investors who have made investments or participated in businesses related to security, public order and public health in any other EU country, and/or (iii) investors in respect of which an administrative or judicial procedure based on criminal or illegal activities has been initiated in any EU member state or in any other state in the world.

Read COVID-19 Publications ›

Iván Delgado

Venezuela – D'Empaire

The Venezuelan government declared a state of emergency, ordered a nationwide quarantine and issued several measures intended to address labor, tax, and other issues caused by COVID-19. The government has suspended national and international flights and imposed severe gasoline rationing. Most of these measures are intended to be effective until April 12, 2020 but can be extended by the government until the spread of COVID-19 is deemed sufficiently contained.

COVID-19: Venezuela Update: Read full article ›

Fulvio Italiani | José Valecillos | Daniel Bustos

France/UK – Willkie Farr & Gallagher LLP

The PRA Publishes COVID-19 Regulatory Reporting Amendments Allowing for Delay in Solvency II Reporting Requirements
Read full article ›

COVID-19: Regulator Guidance on Privacy and Cybersecurity Issues Raised as Companies Respond to the Pandemic [UPDATE]
Read full article ›

COVID-19: UK Government Response to Assist Businesses
Read full article ›

COVID-19: Regulator Guidance on Privacy and Cybersecurity Issues Raised as Companies Respond to the Pandemic
Read full article ›

LATAM COVID-19 Task Force - Challenges and Responses: Latin America, United States and Europe

EU short selling measures in response to COVID-19
Read full article ›

Impact of COVID-19 on EU Merger and Antitrust Cases
Read full article ›

Willkie has multidisciplinary teams working with clients to address coronavirus-related matters, including, for example, contractual analysis, litigation, restructuring, financing, employee benefits, SEC and other corporate-related matters. Please click here to access our publications addressing issues raised by the coronavirus. For advice regarding the coronavirus, please do not hesitate to reach out to your primary Willkie contacts.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Maria-Leticia Ossa Daza	David Mortlock	Jorge H. Kamine	Anna Martini G. Pereira
212 728 8146	202 303 1136	202 303 1376	212 728 8373
mossadaza@willkie.com	dmortlock@willkie.com	jkamine@willkie.com	amartini@willkie.com