

April 15, 2021

INVESTMENT PROMOTION REGIME FOR EXPORTS

The Argentine government implements a promotion regime with the purpose of attracting investments in productive sectors of high export capacity

Decree No. 234/2021

On April 7, 2021, the Emergency Decree No. 234/2021 (the "Decree") was published in the Official Gazette creating the "Investment Promotion Regime for Exports" (the "Investment Promotion Regime").

The Decree makes reference to the positive results achieved by the Investment Promotion Regime for the Exploitation of Hydrocarbons created by Decree No. 929/2013 and, on that basis, provides for the granting of certain benefits in foreign exchange matters that will be applicable to subjects who perform forestry-industrial, mining, hydrocarbon, manufacturing and agro-industrial industries.

In this regard, it establishes that the benefits set forth in the Investment Promotion Regime shall be available to individuals domiciled both within the country and abroad who, in order to undertake the startup of a new productive project or the expansion of existing business units, make a direct investment in foreign currency of no less than USD 100,000,000.

The beneficiaries of the Investment Promotion Regime will have the possibility of applying up to 20% of the foreign currency obtained as a result of the exports derived from the project for: (i) the payment of capital and interest on commercial or financial liabilities abroad; (ii) the payment of profits and dividends corresponding to closed and audited financial statements; or (iii) the repatriation of direct investments by non-residents (see "*Communiqué "A" 7259*" in this legal update). Such application of foreign currencies will allow both its simultaneous use abroad (without income and settlement through the Free Exchange Market) and, otherwise and until its use, its deposit in correspondent accounts abroad of local financial entities and/or in local accounts in foreign currency of local financial entities. In the case of expansion of an existing business unit, the application authority shall assess the annual incremental incidence of the project and said incremental will have the benefits of applying foreign exchange.

The benefit of applying export currencies shall come into effect as from the anniversary of the year in which the entry of foreign currency to finance the project has been made in the Free Exchange Market with respect to each project and may not exceed, in each year, the 25% of the gross amount of the foreign currency entered for such purpose (see "*Communiqué "A" 7259*" in this legal update).

Those who qualify for the Investment Promotion Regime shall obtain a "Export Investment Certificate" which will grant to the projects concerned regulatory stability in foreign exchange matters for a 15-year period, meaning that the benefits provided in the Decree "may not be affected by the foreign exchange regulations that may be issued establishing more burdensome conditions than those contemplated therein".

The Investment Promotion Regime shall last 3 years, which may be extended for an equal term by the application authority.

The Ministry of Economy and the Ministry of Productive Development are designated as the application authority and the Central Bank of the Argentine Republic is assigned the task of carrying out the "*technical evaluation of the projects in relation to their impact on the exchange balance*", which must be taken into account by the application authority when considering the granting of the benefits.

Communiqué "A" 7259

On April 8, 2021, the Central Bank of the Argentine Republic issued *Communiqué "A" 7259*, which regulated the application of foreign currency within the terms of the Decree (the "Communiqué").

The *Communiqué* makes the following clarifications regarding the application of foreign currencies provided for in the Decree:

- (i) it prohibits the application to prepay financial and import debts, allowing it only upon maturity;
- (ii) it prohibits the application for repatriation by controlling companies of local financial entities;
- (iii) for the purposes of calculating the currency cap that may be applied, it specifies that the gross amount of the currencies to be considered is the accumulated amount of the settlements performed in the Free Exchange Market as from April 7 2001 in concept of financial debts abroad and contributions of direct foreign investment; and
- (iv) it contemplates the possibility that, in the event that the application had not taken place at the time of the expiration of the term for the settlement of foreign currency of the corresponding permit, the exporter may

request the entity in charge of monitoring the permit that the term be extended until the date on which the application is expected to take place.

Furthermore, the *Communiqué* foresees that the exporters who opt for the mechanism set forth in the Decree and the *Communiqué* must appoint a local financial entity which, in addition to monitoring the respective exports, shall verify the existence of the "Export Investment Certificate" and that the exports are related to the project.

To access Decree No. 234/2021, click [here](#) (available only in Spanish).

To access Annex I of the Decree No. 234/2021, which contains the detail of certain grains, oilseeds and derivatives of their industrial processing, whose export are not computable for the purposes of the Decree, click [here](#) (available only in Spanish).

To access Decree No. 929/2013, click [here](#) (available only in Spanish).

To access *Communiqué* "A" 7259, click [here](#) (available only in Spanish).

Should you require further information, do not hesitate to contact [María Inés Corrá](#), [Pablo Alliani](#), [Fermín Caride](#), [Marcelo A. den Toom](#) and/or [Cristian Galansky](#).

The information of this newsletter is not to be construed as an opinion or legal advice and does not imply a comprehensive coverage of all the matters referred herein.

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