

RODRIGO,
ELIAS
& MEDRANO
ABOGADOS



RESTRUCTURING AND INSOLVENCY ALERT

Acceptance to the PARC as a
ground for exclusión of the
“Reactiva Peru Program”

The “Reactiva Perú Program”

Through Legislative Decree No. 1455 (“Legislative Decree 1455”), published on April 6, 2020, the REACTIVA PERÚ Program was created to ensure continuity in the payment chain in the face of the impact of COVID-19. This regulation established that through the Operational Regulation of the REACTIVA PERÚ Program (“Operational Regulation”), other eligibility or exclusion criteria may be established for the REACTIVA PERÚ Program.

Through Ministerial Resolution No. 134-2020-EF/15, published on April 13, 2020, the Operational Regulation was adopted in order to regulate the operational aspects and additional provisions necessary for the implementation of the REACTIVA PERÚ Program.

The Accelerated Bankruptcy Refinancing Procedure

Through Legislative Decree No. 1511 (“Legislative Decree 1511”), published on May 11, 2020, the Accelerated Bankruptcy Refinancing Procedure (“PARC”) was created. This procedure establishes an exceptional and transitory bankruptcy regime that allows legal entities affected by the economic crisis caused by COVID-19 to negotiate with their creditors and agree on an orderly rescheduling of the payment of all their obligations; and thus avoid its insolvency, and bankruptcy.

On June 7, 2020, Supreme Decree No. 102-2020-PCM was published, which adopts the regulations of Legislative Decree 1511, from which various aspects related to said procedure have been defined.

Acceptance to the PARC and its implication
in the REACTIVA PERÚ Program

Through Ministerial Resolution No. 181-2020-EF/15, published on June 29, 2020, the Operational Regulation was amended to establish other eligibility or exclusion criteria for the REACTIVA PERÚ Program, incorporating new grounds for exclusion.

The aforementioned Ministerial Resolution No. 181-2020-EF/15 establishes that loans may not be granted to legal persons who have received the PARC or who have submitted an application for acceptance of said procedure.

In accordance with the provisions of the amending rule, the exclusion criteria shall be verified by submitting an affidavit to the Financial System Entity (“EFS”). If the information provided is found to be false, the credit granted by the ESF shall be accelerated, as well as the execution of the collaterals and said ESF shall not be able to grant waivers in this regard.

Likewise, if subsequent to the granting of the guarantee of the REACTIVA PERÚ Program, the legal person accesses the PARC, and this is detected by the ESF or by the Corporación Financiera de Desarrollo S.A. (COFIDE) within the framework of the powers that have been granted to it, this is excluded from the REACTIVA PERÚ Program and the guarantee of said Program is terminated.

It must be noted that a similar provision has been included in the Emergency Decree No. 076-2020, published on June 30, 2020, by which complementary measures are issued for the financing of micro and small businesses in the tourism sector to reduce impact of COVID-19 (FAE-TURISMO), excluding from said financing the companies that have requested their acceptance to the PARC.

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