

MERGER CONTROL REGIME ALERT

On March 4th, 2021, Supreme Decree No. 039-2021-PCM, Supreme Decree approving the Regulation of Law No. 3112, "Law that establishes prior control of business concentration operations" (the "Regulation"), was published in the Official Gazette "El Peruano".

The Regulation establish, in relation to the procedure for the prior merger control: (i) the rules to be followed for the calculation of the thresholds, (ii) the procedure for the prior authorization of business concentration transactions, including the detailed requirements to submit a request for prior authorization to the Commission for the Defense of Free Competition of INDECOPI; (iii) the parameters for INDECOPI's ex officio action, (iv) the voluntary notification, and (v) the procedure for the review of the conditions imposed on the authorized transaction.

In addition, it also establishes specific provisions regarding the economic agents supervised by the Superintendence of Banking, Insurance and Private Pension Fund Administrators (SBS) and the Superintendence of the Securities Market (SMV), regulates the administrative sanctioning procedure for any conduct contrary to the merger control regime, and establishes the creation and implementation, by INDECOPI, of a register where the conditions, commitments, agreements and other measures approved by the INDECOPI in the framework of the merger control procedure will be registered.

Pursuant to Article 2 of the Supreme Decree that approves the Regulations, they will enter into force together with Law No. 3112, which will enter into force fifteen (15) calendar days after the adaptation of the Regulations to the Law on the Organization and Functions of INDECOPI, in accordance with Ninth Final Complementary Provision of said law.

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