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# LEGAL IMPACTS OF COVID-19

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## LEGAL IMPACTS OF COVID-19

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The purpose of this special report (the "Report") is to inform the legal considerations and initial impacts that may affect the operation of your business as a result of the state of emergency (the "State of Emergency") declared through Supreme Decree No. 044-2020-PCM, Supreme Decree that declares a National State of Emergency due to the serious circumstances which affect the life of the Nation as the result of the outbreak of COVID-19 (hereinafter, the "Supreme Decree"). Likewise, the Emergency Decree No. 026-2020 is addressed, Emergency Decree that Establishes Certain Exceptional and Temporary Measures to Prevent the Spread of Coronavirus (Covid-19) in National Territory (the "Emergency Decree").

You must take into consideration that new provisions may be published in the next days, which clarify, precise or broaden the provisions included in the scope of the Supreme Decree. In this regard, the Report will be updated as those additional or complementary rules are issued.

## I. State of emergency

### **Which productive sectors can continue to operate?**

Firstly, it must take into account that the purpose of the Declaration of Emergency established by the Supreme Decree is to order social isolation. In this regard, the purpose of this social isolation extends to all sectors and layers of the production chains. However, this rule seeks to ensure that access to utilities and basic goods and services is maintained at this particular juncture, such as: supply of food, medicines, continuity in the provision of water, sanitation, energy, gas, fuel, telecommunication, cleaning and solid waste collection services, funeral and other services that are established in such Supreme Decree.

Furthermore, the following activities are considered essential activities: assistance and care of the elderly, children, adolescents, dependents, persons with disabilities or vulnerable persons; activities of financial, insurance and pension fund institutions, as well as those complementary and related services that ensure its proper functioning; production, storage, transportation, distribution and sale of fuel; hotels and accommodation centers (only in order to comply with the established quarantine) and the media and call centers.

## Can the exception be extended to other sectors?

The Supreme Decree provides for the possibility to include in the concept of accessible goods and services, those complementary and related services that are necessary for the provision of the basic goods and services referred to in the preceding paragraph. The rule also establishes that the public and private entities can determine which the "complementary and related" goods and services are.

We understand that there are a lot of products and services that can be validly considered "complementary and related" to those expressly established in the Supreme Decree; however, we consider that the complementarity and relativity nature must be associated with the goods and services expressly classified by the rule as basic and those goods and services referred to above.

In this regard, we consider that, unless otherwise provided for by specific complementary rules, companies must identify within their activities those that met such characteristics (for example, if a

good or service is necessary for the supply of food, it would be considered a complementary and related activity). Those activities that do not meet such complementarity and relativity conditions in relation to the basic goods and services –or that are not required within the framework of an Act of God or Force Majeure event– will be considered in the restrictions imposed by the Supreme Decree, and therefore, these activities cannot continue to be performed or provided.

In addition, you should consider that if there is a lack of clarity in some respects, the Law Enforcement agencies in charge of controlling compliance with the State of Emergency could act in a more restrictive manner, as it has been announced.

## **Should a Safe-Conduct pass be processed for circulation?**

The Government has considered the issuance of special permits to circulate in public ways for the provision of the basic services referred to in article 4 of the Supreme Decree. This permit can be obtained via the following link <https://www.gob.pe/pasedetransito> and must be carried at all times (printed copy or in the mobile phone), together with the National Identity Document.

According to the information published, the data to be recorded in the permit request must be true and this will be verified (corroborated with the various State databases such as SUNAT, RENIEC, Peruvian Police Force, the Judiciary Branch, the Ministry of Labor, among others). According to the information provided by the Ministry of Internal Affairs, the persons who submit a request despite they are not essential activity employees, will have their permits rejected and can be subject to an arrest warrant and criminal complaint, which will be controlled by the Peruvian Police Force and the Armed Forces.



## **II. Specific legal impacts**

In addition to the social isolation and distancing, the State of Emergency has a series of impacts on the ongoing legal process and proceedings, which are detailed below. The aspects to be analyzed include:

- 1. Impacts on the labor sector**
- 2. Impacts on the fiscal sector**
- 3. Impact on the calculation and compliance with the administrative obligations and deadlines**
- 4. Impact on the compliance with obligations**
- 5. Impact on the judicial and arbitration proceedings**
- 6. Impacts on the criminal sector**
- 7. Impact on imports, exports and international trade**
- 8. Impacts on the financial, insurance and pension fund systems**
- 9. Impacts on the securities market**
- 10. Impacts on holding shareholders' meetings**
- 11. Impacts on bankruptcy proceedings**



# 1. Impacts on the labor sector

The Emergency Decree establishes as an exceptional measure to prevent the spread of Coronavirus the power of the employer to unilaterally implement remote work during the health emergency period declared by the Ministry of Health (90 calendar days starting from March 12, 2020). The main conditions for remote work are the following:

- It is carried out from the place of home isolation chosen by the employee.
- The employer must inform the employee of its decision to implement remote work by any physical or digital means, and also inform the employee of the safety measures and conditions to be taken.
- The employee must be available during working day hours. The employee must also comply with safety measures and conditions, regulations on information security and data protection and confidentiality.
- The equipment and tools to carry out the remote work may belong to the employer or the employee.
- The employee's remuneration or other economic conditions cannot be affected, except those that are subject to the attendance at the workplace.
- The employer must identify and prioritize the remote work of employees who are considered in the risk group by age and clinical factors. If remote work is not possible, a paid leave of absence must be granted.



- Remote work cannot be implemented for employees declared to have Coronavirus, in this case, the medical leave provisions will apply. If the employee receives a monthly remuneration no greater than S/ 2,400, EsSalud's temporary disability benefit is payable from the first day.

Due to restrictions on the right to free transit for people, employees must not attend their workplaces, except those engaged in the production or provision of the following basic goods or services:

- Water, sanitation, energy, gas, fuel, telecommunication, cleaning and solid waste collection services
- Production, storage and sale of pharmaceutical products and basic need products.
- Health services.
- Assistance and care of the elderly and other vulnerable persons. Services provide by financial, insurance and pension fund institution.
- Services provided by hotels and accommodation centers, only in order to comply with the established quarantine.
- Services provided by the media and call centers. Services that are complementary or related to the ones referred to above.
- Any other activity of similar nature or that must be carried out due to an Act of God or Force Majeure event.

For purposes of posting employees who are required to carry out the employer's essential activities in relation to the items described above, they must arrange and obtain the special transit pass described in the preceding section.

During the State of Emergency, the employer may implement remote work under the above terms. If this is not possible, a paid leave of absence must be granted.



## 2. Impacts on the fiscal sector

The Declaration of a State of Emergency has resulted in the establishment of certain measures for the fiscal sector.

Firstly, Superintendency Resolution No. 054-2020/SUNAT amends the maturity schedule of the Annual Income Tax Return and the Financial Transaction Tax for tax debtors receiving third category income, and who in taxable year 2019 have earned a net income of up to 2,300 Tax Units (S/ 9'660,000.00) or who have obtained or received revenues other than third category income, which added up do not exceed such amount. The new deadlines are the following:

LAST DIGIT OF TAXPAYER ID NUMBER AND OTHERS	MATURITY DATE
0	June 24, 2020
1	June 25, 2020
2	June 26, 2020
3	June 30, 2020
4	July 1, 2020
5	July 2, 2020
6	July 3, 2020
7	July 6, 2020
8	July 7, 2020
9	July 8, 2020
Good Taxpayers and persons who are not obliged to obtain a Taxpayer ID number	July 9, 2020

Secondly, Superintendency Resolution No. 055-2020/SUNAT establishes the following measures after the declaration of national emergency as a consequence of Coronavirus (COVID-19) for taxpayers receiving third category income, who in taxable year 2019 have earned a net income of up to 2,300 Tax Units (S/ 9'660,000.00) or who have obtained or received revenues other than third category income, which added up do not exceed such amount:

- i) The due dates for the declaration and payment of monthly tax obligations of February 2020 are extended as follows:

Month of the obligation	Due Date according to the last digit of the Taxpayer ID Number			
	1 and 2	3, 4 and 5	6, 7, 8 y 9	Good taxpayers (0, 1, 2, 3, 4, 5, 6, 7, 8 and 9)
February 2020	April 3, 2020	April 6, 2020	April 7, 2020	April 8, 2020

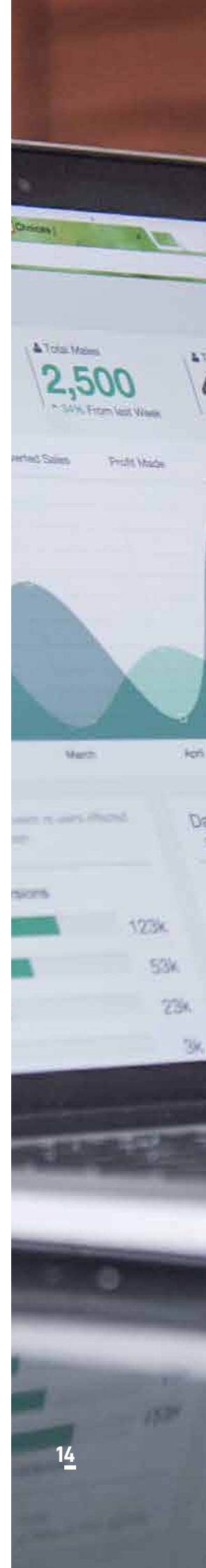
- ii) The maximum deadlines with respect to the Register of Sales and Revenues and the Register of Electronic Purchases of Annex II of Superintendency Resolution No. 269-2019/SUNAT for February 2020 are extended, as follows:


Month of the obligation	Due Date according to the last digit of the Taxpayer ID Number			
	2	3, 4 y 5	6, 7, 8 y 9	Buenos contribuyentes (0, 1, 2, 3, 4, 5, 6, 7, 8 y 9)
<b>February 2020</b>	April 2, 2020	April 3, 2020	April 6, 2020	April 7, 2020

- iii) The maximum deadline with respect to the tax related books and records that are kept physically (Resolution No. 234-2006/SUNAT) and electronically (Resolution No. 286-2009/SUNAT) -which originally expired between March 16, 2020 and March 31, 2020- were extended until April 1, 2020.
- iv) The delivery deadlines for submission to SUNAT, directly or via OSE where applicable, of information statements and communications from the Electronic Issuing System, -which originally expired from March 6, 2020 until March 31, 2020- were extended until April 15, 2020.
- v) The deadline for submitting the Annual Declaration of Transactions with Third Parties (DAOT),-which originally expired from March 16, 2020 to March 31, 2020- were extended until April 7, 2020.

- vi) It is ordered that these new due dates will be applied in order to account for the deadlines that taxpayers have to submit a request for the refund of credit balance in connection with the profit from March or later months.

Therefore, the original maturity schedules for the annual declaration and payment of all other taxpayers not included in this provision are maintained to date.





### **3. Impact on the calculation and compliance with the administrative obligations and deadlines**

The Second Final Supplementary Provision of the Emergency Decree establishes that the deadlines for processing the ongoing administrative proceedings subject to positive or negative silence are suspended for 30 business days starting from March 16. This rule will only apply to the deadlines that the Administration Authority has to solve this type of proceedings, which must be extended for such time period. However, there are other type of procedures, such as the sanctioning procedures arising from the contracts with the State, among others, that do not formally fall under this rule. We consider that this suspension must be of general application.

In any case, the Government should clarify as soon as possible that the suspension has a broad scope and, therefore, it applies to all type of administrative proceedings.

Most of the government agencies have suspended attention to the public and informed that their front desks are closed . However, there are certain formalities that require proceedings to be followed by the Applicants (for example, presentation of documents, discharges, commitments) that become due between March 16 and 30. In view of this situation and as long as the clarifying rules referred to above are not issued, the following must be considered:

- a. The deadlines for the submission of documents will be deemed to be suspended between March 16 and 30, and shall be counted again on March 31 (or the day following the termination of the State of Emergency). Various Government agencies (OSITRAN, OEFA, OSIPTEL, SMV, and INDECOPI) have issued communiqués announcing that these deadlines are suspended during the state of emergency.

This suspension is based on the principle of due process regulated in article IV.1.2 of the Single Revised Text of Law No. 27444 (the "LPAG"), which indicates that the Applicants have the right to refute charges, present arguments, pleadings and show evidence. None of these rights could be fully exercised in a State of Emergency where, due to the restrictions, the Applicant does not have the possibility to collect documents, arguments and analyses to exercise those rights in a consistent manner.

- b. The documentation pending to be delivered could be submitted on March 31 (or the day following the termination of the State of Emergency), emphasizing the possibility to exercise the right to extend or clarify the documentation submitted while the deadline was suspended, as referred to in the preceding paragraphs.

<sup>1</sup> Notwithstanding that article 148.3 of the LPAG establishes that "entities cannot unilaterally disable working days, and, even in cases of force majeure that impede the normal functioning of their services, they must ensure that their front desk service is maintained".

<sup>2</sup> In this regard, article 145.2 of the LPAG establishes that "when the last day of the specified deadline or date is a non-business day or due to any other circumstance the attention to the public on that day does not work during regular working hours, these deadlines and dates are extended until the first following working day".



- c. If there is the possibility that, within the period covered by the State of Emergency, documents may be submitted via email, the authorities should advance the submission of the document by said means, emphasizing that they have the right to expand or specify the documentation submitted while the term was suspended, as mentioned in the preceding paragraphs.
  
- d. There are certain activities that have not been affected by the State of Emergency, such as the provision of public services (electricity, telecommunications, and sanitation), health services, fuel services, supply of pharmaceutical products, financial institutions, etc. For those legal entities that provide these services, they must comply with the obligations and terms established in contracts or in the legal framework, provided that they are closely related to the continuity of the service they provide (for example, supply reconnection services).

On this point, it is important to emphasize that the goods and services on which said restrictions have been established must consider what is meant by "essential" even within these same industries or sectors.

- e. Administrative or commercial obligations that are not indispensable for the continuity of the provision of said service must be understood as suspended by the State of Emergency. For example, obligations regarding the settlement of claims or sales of accessory products to essential service (i.e., sales of internet packages by telecommunications companies) are suspended.



## 4. Impact on the fulfillment of obligations

We consider that the limitation to freedom of transit decreed by the Peruvian State through the Supreme Decree could constitute a situation of force majeure regulated in article 1315 of the Civil Code, the same that states that "Act of God or force majeure is the non-imputable cause, consisting of an extraordinary, unforeseeable and irresistible event, that prevents the execution of the obligation or determines its partial, late or defective performance".

In accordance with the provisions of the Civil Code mentioned above, failure to comply with legal or contractual obligations relating to events classified as fortuitous event or force majeure may not be considered as imputable or punishable breach of the party who failed to fulfill such obligations.

Consequently, under this general rule, there is no legal or administrative responsibility derived from the failure to comply with the legal obligations established in the applicable legislation.

In that regard, the fulfillment of certain obligations in the context of the State of Emergency and the limitation to free transit would be a fact that is beyond the control of the obligated parties, and, therefore, their failure to comply could not be subject to legal or administrative sanctions.

However, as described above, certain sectors and industries must continue to operate in order to ensure the supply of food and beverages and are exempted from the application of the restriction on free transit, in such cases; the situation of non-compliance could not be justified under the figure of a fortuitous event or force majeure. Notwithstanding this, we consider that said circumstances would have to be analyzed on a case-by-case basis in order to determine whether these specific circumstances could be included under the event of unforeseen circumstances or force majeure, considering the actions of the authorities supervising compliance with the State of Emergency (for example, if by action of the authority the obligation to transport food is prevented, among other cases).



## 5. Impact on judicial and arbitral proceedings

Regarding the attention and deadlines of the ongoing judicial and arbitral proceedings, the following has been determined:

- a. The governing body of the Judiciary has decided to suspend procedural and administrative deadlines while the state of emergency lasts. This means that the terms that were in progress are stopped and will resume after the end of the fifteen calendar days, counted from Monday, March 16, 2020. The proceedings scheduled for this period are canceled.
- b. The only exception for the time being is in criminal matters. There will be judicial and prosecutorial attention in cases involving detainees, complaints of flagrant crime and crime prevention complaints.
- c. The Constitutional Court has issued a statement indicating that the hearings scheduled within this period will be rescheduled and that activities are suspended. It does not specifically refer to the suspension of time limits, but it is evident that it will not be possible to make written submissions.
- d. Regarding arbitration proceedings, both the Arbitration Center of the Chamber of Commerce of Lima and the Center for Conflict Analysis and Resolution of the Pontifical Catholic University of Peru, have issued communiqués providing for the suspension of deadlines and the suspension of hearings scheduled for this period. In addition, the AmCham International Arbitration Center has announced that its offices will be closed until further notice.



## 6. Impacts in the criminal field

Failure to observe measures restricting the exercise of Criminal laws cannot be applied without losing sight of the purposes they seek to protect. Thus, the Supreme Decree establishes within its purposes to guarantee the supply of food and medicine, as well as the continuity of water, sanitation, electricity, gas, fuel, telecommunications, cleaning and other services. To this end, Article 4 of the Convention establishes a series of exceptions to the restriction of the exercise of fundamental rights, the application of which must be interpreted based on the weighing of two interests; On the one hand, (i) the preservation of public health; and, on the other, (ii) the need to ensure the continuity of basic services that ensure the supply of food, medicine, electricity, gas, telecommunications, care for people in vulnerable situations, etc.

Therefore, in so far as this is an activity necessary to ensure access and operation of the basic services indicated in the Supreme Decree, in case the authority arbitrarily seeks to close down or impede their operation, the Office of the United Nations High Commissioner for Human Rights could be referred to

the Office of the Prosecutor for Crime Prevention in order to avoid its closure, on the grounds of the imminent commission of an offence of abuse of authority. One of the bodies of the Public Prosecutor's Office that will continue to function during the state of emergency is the Office of the Public Prosecutor for Crime Prevention.

fundamental rights during the decreed State of Emergency may result in the commission of an offense against public health by offenders or their representatives in the case of legal persons, Article 292 of the Code of Criminal Procedure penalizes those who violate measures imposed by law or authorities to prevent the spread of a disease, epidemic or plague.

Likewise, the resistance to abide by a specific order and legally imparted by one of the authorities responsible for ensuring compliance with the decreed State of Emergency (i.e. National Police, Armed Forces), Article 368 of the Code of Criminal Procedure provided that an offender may be charged with disobedience and resistance to authority.



## 7. Impact on imports, exports and foreign trade

Pursuant to article 8.3 of the Supreme Decree, the transport of cargo and goods for entry (imports) and exit (exports) to and from the country are not included within the closure of borders, also indicating that the competent authorities shall take measures to ensure these operations, which indicates a willingness not to affect their fluidity.

However, to date no complementary or development measures have been issued to regulate necessary aspects relating to, for example:

- Ensure the timely numbering and operational process of import and export declarations;
- Ensure the transport of goods to the premises of importers (consignees) or from the premises of exporters (consignors), as appropriate;
- Ensure the participation of foreign trade operators (Customs Agents, Customs Warehouses, etc.) involved in import and export logistics;

- Ensure the participation of the personnel of the importing or exporting company that is essential for the tasks of receiving the import cargo (for the purposes of storage) or dispatching the export cargo, as appropriate.

For now, Customs has prioritized foreign trade operations for food and medicine. It would be expected that, in the near future, a statement or precision standard would be issued on these and other issues that could affect foreign trade operations.







## 8. Impacts on the financial system, insurance and pensions

### a. Non-suspended operations and customer service

According to the Supreme Decree, financial, insurance and pension services are among the activities considered essential and, therefore, must continue to be provided during the State of Emergency.

As for the Superintendency of Banking, Insurance and AFP ("SBS"), it has communicated the suspension of face-to-face attention in its offices and customer service modules at the national level, indicating that the attention will be given through our digital channels implemented for this. This suspension includes attention by documentary procedure or by a panel of parties and any other face-to-face management during the term in which the State of Emergency is in force. Likewise, the deadlines applicable for administrative proceedings before the Department of Citizen Services have been suspended.

## **b. Rescheduling of payments**

Furthermore, in 2010 the SBS issued provisions allowing financial system entities to make amendments to credit contracts in order to reschedule the payment of their clients' debts without this implying a refinancing, provided that said rescheduling is not linked to difficulties in the debtor's capacity to pay. In this connection, the SBS has determined that only debtors who have not suffered arrears in their payments at the time of the declaration of the State of Emergency will be able to access these rescheduling, being the obligation of financial entities to carry out the evaluation in each case, to have the corresponding supporting documentation included in the respective debtor's file and making the relevant reports to the SBS on this matter.

## **c. Administrative terms**

Through SBS Resolution No. 1259-2020, the SBS has ordered the suspension, for fifteen (15) calendar days, of the computation of the administrative deadlines related to the functions and powers assigned to it. It has also ordered the suspension of the deadlines set for the virtual delivery of information to the SBS, as well as the deadlines referred to in articles 252 (limitation period for determining the existence of administrative offenses) and 253 (limitation of the enforceability of fines imposed) of the LPAG.

By means of multiple trades signed by the competent Deputy Superintendents, the SBS shall establish the measures, supplementary instructions and exceptions applicable to the systems supervised by the SBS that are necessary for the implementation of the aforementioned.

## 9. Impacts on the stock market

The Superintendency of the Securities Market ("SMV") has published a notice informing about certain measures it has adopted in response to the declaration of a State of Emergency. The main measures are the following:

### a) Impacts on the Stock Market

- a. Regarding issuers with securities registered in the Public Securities Market Register ("RPMV"), with the exception of financial system companies under the supervision of the SBS: During the State of Emergency Declaration period ("Period"), obligations related to the submission of financial information, annual report, management report or any other periodic information whose deadline for submission is within said Period shall not be enforceable.

The SMV acknowledges in said notice that during the Period it will not be possible to hold annual mandatory shareholders' meetings, bondholders' meetings, or any other meeting called or to be held during that period.

- b. For the other entities under the supervision of the SMV: during the aforementioned period, the obligations to send information to the SMV, including those mentioned in the previous number, will not be enforceable.

The notice exempts from the previous rule the obligations related to the following information:

- daily report of quotas, members and quota value;
- daily files of operations and prudential indicators of brokerage firms; and,
- any other that the SMV determines, in which case, said decision will be communicated to the respective duty bearers.

The SMV announces that, once the validity of the measures ordered has expired, it will establish new deadlines for the fulfillment of such obligations.

**b) Suspension of other terms by administrators and SMV.**

Notwithstanding the suspension indicated in point 1, during the Period, the deadlines that the companies have to attend to information or documentation requirements formulated by the SMV are suspended.

Likewise, during the next 30 working days, all administrative deadlines that the SMV must observe to attend to requests are suspended.

**c) Suspension of customer service and certain processes by the SMV**

The notice points out that during the Period the attention to the public by the SMV is suspended, and that no meeting will be held, neither face-to-face attention, nor documentary attention to the public.

The notice also announces that the call processes for the selection of recovery entities or any other similar or equivalent entities are suspended.

**d) Negotiation and activities of supervised entities are maintained in a restricted manner.**

During the Period, the services of trading in securities, transfer of securities (between participant parent accounts), delivery and payment of dividends or any other right or benefit on securities registered in the RPMV shall be maintained, subscriptions and redemptions of shares in mutual funds, provided, as appropriate, by the Bolsa de Valores de Lima S.A.A, CAVALI S.A I.C.L.V., mutual funds and investment fund management companies and brokerage companies.

Likewise, during said period, the entities indicated in the previous paragraph will continue to work in a restricted manner and limited to essential services.



## 10. Impacts on holding shareholders' meetings

In view of the isolation measures, prohibition of movement and limitation of the right to the meeting decreed by the government, the general shareholders' meetings that have been called to meet on a date that is within the State of Emergency, may not be held, except in the case of sessions called for off-site use, in cases where this modality is allowed either by statute or by the General Companies Act (as is the case of closed public limited companies) and complies with the provisions laid down for this purpose.

Although, in accordance with article 8 of the Supreme Decree, the restriction measures would allow the mobilization and implementation of activities designated as essential by the Supreme Decree, we consider that such provisions should be interpreted as being aimed at enabling activities which are indispensable for maintaining the provision of services within the scope of the Supreme Decree, which would not include participation in general shareholders' meetings or other corporate bodies.



Now, in relation to the companies under the supervision of the SMV, in addition to what the SMV has indicated, the Lima Stock Exchange ("BVL") has issued a statement stating that, if any of the calls made are outside of the period of the State of Emergency, this should be done and informed. This would include the assumption that the first call may fall within the State of Emergency period, but the second is scheduled at a later date.

Said interpretation could be extended to other companies, however, to the extent that the rules of quorum and majorities could be different in the case of a second call and considering that the above would apply to companies under the scope of the SMV. We consider that a valid position is to interpret the fact that a new call for proposals will have to be made, with a date of realization which will be later than the end of the State of Emergency.

Without prejudice to the possibility of publication of notices in the Official Gazette El Peruano, during the State of Emergency, we suggest that any new call be published once the aforementioned period has ended to avoid making new calls in case the term of the State of Emergency is extended.



## 11. Impacts on insolvency proceedings

The coronavirus outbreak (COVID-19) has affected and will continue to affect numerous companies throughout the world, a phenomenon that will undoubtedly lead to a substantial increase in private and public restructuring, as well as insolvency proceedings worldwide. At the local level, government regulations related to the declaration of the State of National Emergency, while necessary and adequate to contain the spread of the disease, will undoubtedly cause liquidity problems and financial stress in various companies, especially those that activities have been suspended and will be closed throughout the term of the State of Emergency.

Although bankruptcy authorities will not be available during the State of Emergency and it will be difficult to take immediate action, it is important to try to anticipate the effects of the crisis and be prepared to implement the necessary measures to face the situation.

From this, private and public courses of action can be designed to overcome the immediate crisis, either in a scenario of private or public restructuring. Private restructurings often involve private debt renegotiation mechanisms with essential creditors (strategic providers, workers), of the debtor, refinancing of obligations to financial entities, the re-investment of capital or the issuance of commercial papers in order to exchange it for overdue debt, granting of guarantees, protection of production units, etc.

Alternatively, public restructuring involves the initiation of a preventive bankruptcy proceeding, which by its nature might be the most appropriate in these situations, or an ordinary bankruptcy proceeding, depending on the particular case. In this regard, the General Law of the Bankruptcy System establishes that a debtor may request the initiation of an ordinary bankruptcy proceeding provided that he is, at least, in one of the following cases: (i) more than one third of its total liabilities are due and unpaid for a period greater than 30 calendar days; or, (ii) that it has accumulated losses, net of reserves, the amount of which is greater than one third of the share capital paid. Likewise, any debtor may request the initiation of a preventive bankruptcy proceeding provided that he is not in either of the two previous cases.

Each legal strategy has its advantages and disadvantages and therefore the decision to opt for a private or public restructuring, and in turn, to choose the most appropriate mechanism, must go through a careful legal analysis. The table below summarizes the main advantages and disadvantages of both proceedings:

No	Concepto	Reestructuración privada	Reestructuración pública
1	Transaction costs	Medium. It usually takes less time and resources.	High. It usually takes more time and resources.
2	Number of creditors that must be in favor of the proposed Restructuring Plan.	Hundred percent (100%).	Two-thirds (66.6%).
3	Property protection (suspension of individual executions)	No.	Yes.
4	Reputational risk	Low	High
5	Obligation acceleration risk	Low	High
6	Financing availability	Accessible	Not very accessible
7	Company control	It is maintained	It depends on the type of proceeding.

Taking all of the above into account, it is advisable that the financial aspects of dealing with this crisis should be accompanied by a proper evaluation of the aforementioned legal strategies and others that can help to overcome the economic crisis effectively.

The Study's restructuring and insolvency area is prepared and ready to work immediately on diagnosing the crisis and designing refinancing, restructuring and overcoming strategies, in the most efficient way possible according to the specific situation of the company.