

Presidency publishes Provisional Measure to foster business environment

On March 29, 2021, the Brazilian President published the Provisional Measure nº 1.040, called “MP for the Business Environment”, which aims to facilitate and promote business in Brazil, targeting a better position for the Country in the World Bank's Doing Business ranking.

The first chapter of the MP contains rules for facilitating the opening of companies, in line with what had already been introduced by the Law of Economic Freedom in 2019. Examples of new rules:

- creation of mechanisms to allow prior research on the stages of registration, alteration and termination of entities and entrepreneurs, as well as on licensing and operating permits, aiming to bring clarity to the required documentation, location feasibility and business name; and
- the automatic issuance of operating permits and licenses in case of activities considered to be of medium risk, as to be defined in a specific act.

The impacted public entities have a period of 60 days to implement the planned measures. The MP also innovates on the protection of minority shareholders of publicly-held corporations by amending articles of the Brazilian Corporation Act (Law 6,404/76), such as granting to the Shareholders General Meeting the role to deliberate on the disposal of assets that represent more than 50% of the corporation's total assets and on the execution of transactions with related parties. In addition, it prevents the accumulation of the positions of Chairman of the Board of Directors and Chief Executive Officer.

With regard to Foreign Trade, the MP determines the creation of a “Single Electronic Counter” for sending documents and communication between importers/exporters with the public. This determination also complies with the provisions of the Agreement on Trade Facilitation, adopted by the members of the World Trade Organization, according to the Amendment Protocol promulgated in 2018.

The MP also created the Integrated Asset Recovery System (SIRA) which aims to form a database with information on assets and goods of individuals and entities, in order to subsidize judicial decisions in cases involving the recovery of public or private credits. Among the SIRA principles, we may list the interoperability and integration with the systems used by the courts, in order to subsidize the judge's decision making and allow the effective enforcement of court orders related to asset recovery.

As any Provisional Measure, the MP for the Business Environment has the force of law as of its publication, but has a determined term, as it needs to be converted into law. To this date, more than 50 amendments to the current text of MP 1040 are currently pending in the Brazilian National Congress.

Please contact our Corporate and M&A team for more information.

Marcus Felipe Barbosa de Souza
mph@gnblaw.com.br

Marina Machado Schmitt
mmt@gnblaw.com.br