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Guide to Doing Business

Uruguay

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I LEGAL SYSTEM AND BUSINESS REGULATION

I.1 Government and Legal System

Uruguay is organized as a single, democratic republic. The current constitution, approved in 1966, establishes a presidential system of government, with three independent branches: the Executive, the Legislature and the Judiciary.

The president heads the executive branch and is chief of staff and commander of the armed forces. Uruguay's presidential electoral system -amended in 1996- establishes a "ballotage" system by which there is a second election if the most voted candidate does not obtain a clear majority. The president is elected for a five-year term and may not seek re-election for consecutive terms. The legislative branch is composed of a 31-member Senate and 99-member Chamber of Deputies which together form the General Assembly whose members are elected every five-year by direct popular vote under a system of proportional representation. The Judiciary is presided over by the Supreme Court of Justice, consisting of five members appointed by the Executive with the approval of the Legislature.

Uruguay is divided administratively into 19 departments, each with its own Municipal Government. Each department has a Mayor and a Departmental Council elected by popular vote.

I.2 Forms of Doing Business

Companies in Uruguay are most commonly organized either as corporations (with registered or bearer shares) or as branches of a foreign company.

Limited liability companies are also used (normally for very small companies).

There are other legal structures, less attractive to the foreign investor, such as capital and services partnerships, joint-stock companies, and general partnerships.

The potential foreign investor has a free choice to adopt any desired legal organization form. However, in the choice of the legal vehicle, legal and tax counsel is advisable. A corporation may be wholly owned, and a branch may conduct full business transactions. A partnership also may be wholly owned by foreign individuals or entities.

No investment permits or similar approvals are required. There are no restrictions on the repatriation of capital and earnings, except for investors who choose to be protected under the Foreign Investment Law.

Consortia (joint ventures) are regulated by the Law on Commercial Companies, Economic Interest Groups and Consortia (Law No. 16,060) (hereinafter "Law on Commercial Companies"). They tend to be used for major public works and do not constitute companies or legal entities, but instead are contracts of an associative nature.

I.2.1 Stock Company ("*Sociedad Anónima*")

I.2.1.1 In general

Corporate rules are contained comprehensively in the Law on Commercial Companies[1] that embodies detailed regulations on the foundation and operation of corporations.

There are two kinds of corporations: i) publicly traded corporations and ii) closed corporations.

Publicly traded corporations are defined as founded through public subscription of shares, quoting their shares on the local stock exchange, publicly issuing debentures or attracting public savings to subscribe or increase their capital. Publicly traded corporations are subject to stricter controls by the corresponding state office (the National Internal Auditory) than are closed corporations.

Closed corporations are defined as all those that do not have the foregoing characteristics. Therefore, closed corporations are not allowed to quote their shares on the stock exchange, nor issue debentures or attract public savings to subscribe or increase their capital. They are subject to government control only upon specific and important events like the formation, approval of the By-laws and amendments, dissolution, winding up, merger, changes in the legal form and increase or decrease of capital.

I.2.1.2 Capital requirements

The capital of corporations is divided into bearer or registered shares, and shareholders, in this capacity, do not carry any liability for the company's debts beyond the amount of capital each shareholder pays or agrees to pay in. Shares must be registered for certain special activities (e.g., agriculture and livestock establishments; broadcasting corporations; road or air transportation). There is no restriction in the transfer of the shares, although certain transfer (e.g. corporation exploiting television or broadcasting channels) have to be approved.

At least 25% of the authorized share capital must be paid in.

Since the approval of law Number 18.083 that amended section 279 of law Number 16.060, a minimum capital is not more required.

A recently enacted Uruguayan law (Law N° 18.930) provides that Uruguayan corporations with bearer shares shall register its shareholders before the Central Bank of Uruguay (hereinafter "**CBU**").

This act, which became enforceable on August 1st, 2012, compels Uruguayan companies with bearer shares and its shareholders to report the ownership of said shares to the CBU.

[1] Law No. 16,060 of November 1, 1989, Articles 244 to 433.

The information contained in the CBU's registry will not be public. However, Uruguayan Tax Authorities and Foreign Tax Authorities (of countries with whom Uruguay has subscribed or will subscribe international tax treaties regarding information exchange) may have access to such information.

Penalties for not complying with the reporting requirement established by the refer act include fines which could reach approximately US$ 25,000 and can be imposed to both the Company and its shareholders (depending who is the one not complying with the reporting requirement).

In addition to said fines, the following penalties could be imposed:

1. The Tax Authority (*Dirección General Impositiva*) will not grant the Company a special tax certificate (*Certificado Único Especial*) which represents that the Company has complied with its tax obligations and is usually required by many Governmental entities as well as local banks.

2. Shareholders will not be able to exercise any right derived from their ownership of the shares, such as voting rights and collecting dividends.

In this regard, please note that, a recently enacted Uruguayan law (Law 19.288) provides that those corporations with bearer shares that do not register the holders who represent at least 50% of its paid-in capital or equivalent, as appropriate, before the CBU (in accordance with Law 18.930) within 90 calendar days as from the effective date of Law 19.288 (November 1st, 2014), will be automatically dissolved.

Once such corporations are automatically dissolved, they must be liquidated within a period of 120 calendar days, as from the expiration of the aforementioned 90 days period. In this regard, Section 3 of such law sets forth that to these effects an Extraordinary Shareholders Meeting must be held in order to appoint the liquidators and approve the inventory and balance for the liquidation. If the required quorum for such meeting is not obtained the inventory and the balance will be considered approved, and the liquidation will be in charge of the administrators of the corporation.

Once extinguished all the corporation's debts and awarded all the remaining assets of the company to the shareholders, or when from the initial inventory or balance, no liabilities or assets result, the administrators or liquidators must submit closure for cease of activities before the Uruguayan Tax Authority ("*Dirección Nacional Impositiva*").

If such corporations are not liquidated within such period of 120 days, these shall be punished with a fine whose amount is expected by 50% of the assets owned by the company at that time.

On the other hand, it is important to emphasize that shareholders of companies with nominative shares, have no registry obligation and on this basis a more flexible regime has been established, so that corporations may amend their bylaws replacing bearer shares for nominative shares.

Furthermore, corporations may issue ordinary shares and preferred stock. The preferred shares allow their holder to exercise certain rights that are not available to the ordinary shareholders. The holder of preferred shares may have the right to appoint a certain number of members of the Board

of Directors, or have the right to a predetermined amount of profits, etc. The preference has to be precisely ruled in the By-laws.

I.2.1.3 Formation

In the case of closed corporations, at least 2 founder shareholders must sign the foundation minutes and approve the By-laws before a notary public. By-laws are subject to authorization of the National Internal Auditory, and have to be recorded once the approval has been granted at the Trade Register and published in the official gazette. The By-laws should contain the basic characteristics of the corporation (corporate purpose, duration, administration, etc.), as well as any other regulations not violating legal provisions (e.g., procedure for Shareholders Meetings, representation of the corporation, etc.).

There are, however, certain legal provisions of public order that prevail over the stipulations of By-laws.

In the case of open corporations, the foundation typically starts with the promoters drawing up a foundation program to be submitted to the National Internal Auditory. Once the foundation program is approved, the public subscription and payment of the share capital must be effected; finally a founders' meeting is to be held to form the corporation and to approve its By-laws. Thereafter, the procedure is the same as for closed corporations.

A closed corporation automatically becomes a publicly traded corporation while doing at least one of the activities specifically reserved to publicly traded corporations.

In both cases, the corporation's legal existence starts once registration is effected and published.

There must be at least 2 founder shareholders. Once formation has been completed, the shares may be transferred, so the minimum number of shareholders may be reduced to one. There is no limitation in the number of founding shareholders.

Although the formation of a corporation can take at least three months, there are local professional firms who offer “shelf corporations” which have not started operations and provide an immediate use.

I.2.1.4 Management and Control

The Shareholders Meeting is the highest corporate authority. It must meet at least once a year to approve the annual balance sheet and the distribution of earnings, as well as to appoint the Board of Directors or administrator. Administration may be entrusted to a single administrator or a Board of Directors consisting of one or more persons appointed by the Shareholders meeting. The administrator or directors must be registered at the Trade Register (dependency of the Ministry of Economics and Finances), this registry must be up dated at all times, if they are not their acts will be considered as ineffective.

In the case of publicly traded corporations the Board of Directors must meet at least once a month, whereas in close corporations it must mandatorily meet once a year to call the Shareholders Meeting (to submit the annual balance sheet, etc.). The Board may meet in Uruguay or abroad, at its discretion.

The Board of Directors may govern the corporation subject to the control of the Shareholders. The members of the Board of Directors are liable before the corporation, shareholders and third parties for the damages caused by their acts performed against the law or the By-laws. The members of the Board of Directors are also liable for the payment of the corporation income tax when due in any case and for all the corporation's tax debts to the extent that the Director failed in acting with due care.

Companies must keep their records in accordance with generally accepted accounting rules and principles.

The following books are mandatory:

1) Journal, 2) Inventory Book, 3) Letter Copybook, 4) Minutes of Board Meetings, 5) Minutes of Shareholders Meetings, and 6) Stock Ledger and Shareholders Meeting Attendance Book.

The Trade Register must seal these records. If the corporation has registered shares it must keep a Ledger of Registered Shares. The same is applicable for shares not represented by certificates. The law permits this possibility, in which case the corporation must keep a book recording such shares.

Auditors are not mandatory, except for financial intermediation firms and publicly traded corporations, where the controller or control board must verify the financial statements. If publicly traded corporations have independent auditors, the controller or the control board may request the reports they deem advisable from the same. A Public Accountant must certify balance sheets submitted to public agencies.

I.2.1.5 Distributions

The distribution of earnings can be provided for in the By-laws. The law nevertheless makes it mandatory to distribute at least 20% of net earnings for each business year to shareholders as a dividend, unless otherwise resolved by shareholders representing 75% of the paid-in capital.

Apart from the rights granted to ordinary shares, the holder of preferred shares may have the right to receive a fixed dividend or a profit percentage or even a preference right in the reimbursement of capital in the event of winding up or dissolution.

Distribution of dividends is likewise not mandatory when earnings are to be allocated to replenish the obligatory legal reserve or to cover losses carried over from previous years.

Corporations must withdraw at least 5% of the net earnings of each financial year to constitute a legal reserve, until the balance thereof reaches 20% of the authorized share capital.

The distribution of provisional dividends is permitted in certain specific cases, when the company has freely available reserves or when a special balance sheet shows earnings in excess of the amount to be advanced. In such cases the company must obtain certificates indicating that it is up to date in the payment of taxes and social security contributions. An audited balance sheet is not required.

I.2.1.6 Financial reporting

The Board of Directors must annually submit to the Shareholders Meeting approval of the financial statements of the corporation. In addition, publicly traded corporations and the closed corporations in same cases, have to present their balance sheets before the National Internal Auditory on an annual basis.

I.2.2 Limited Liability Company (*"Sociedad de Responsabilidad Limitada" - S.R.L.*)

This legal form[2] is usually chosen by medium and small size business entities, typically by a partnership among family members or friends working together.

In this kind of partnership, the liability of the partners is limited to the capital they subscribe, being however liable for the labor debts. In addition, the administrators partners are also liable for the payment of the company's income tax when due in any case and for all the company's tax debts to the extent that the administrator partner failed in acting with due care.

The formation of a limited liability partnership is based on a registered company deed. Such deed has to be recorded in the Trade Register and published in the official gazette and in another newspaper. Once the publications are made the company is legally formed.

There must be a minimum of 2 and a maximum of 50 partners. There are no restrictions as to the partners' nationality or domicile and individual or even legal entities may be partners.

Voting procedures can be established in the partnership agreement. In the absence of same, decisions on administrative matters shall be adopted by a majority, and votes shall be in proportion to capital (with the smallest participation being computed as one vote and the number of each partner's votes being calculated as a multiple thereof). On the contrary, those decisions implying a major change in the contract (e.g., change in purpose, transformation into another type of company, dissolution, as well as all amendments imposing broader obligations or responsibilities on partners) may only be resolved by unanimous vote, except when there are more than 20 partners, in which case a decision shall be made by a special meeting of partners with a quorum of attendance of 60% (on first call) and 40% of capital (on second call), and the favorable vote of the absolute majority of votes of the shareholders in attendance.

[2] Law No. 16,060 of November 1, 1989, Articles 223 to 243.

The maximum authority for such companies is the Meeting of Partners, which must hold session at least once a year to approve the annual balance sheet and the performance of the administrators. Companies having more than 20 partners are governed in the same manner as corporations and must therefore have an administrator or a board of directors.

This kind of companies to the extent that they not exceed 20 partners may be managed either by one or more partners or by an administrator appointed by them.

In addition to the certified books that are mandatory for all companies (Journal, Inventory, Letter Copybook), these companies must keep Books of Meetings of Partners, of Minutes of the Board (if there is one), and a Register of partners and transfers of participation.

I.2.3 Branch of Foreign Entity

Companies established abroad are recognized in Uruguay and may perform isolated acts or contracts without any other prior administrative procedure or act. However, when they decide to become involved in an on-going business they must set up a branch in the country. Branches are regulated by provisions similar to those for local companies as regards organization, tax treatment, etc.[3]

To set up a branch, the By-laws of the foreign corporation and the minutes including the decision of setting up a branch have to be recorded in the Trade Register and an authorized capital has to be assigned.

Under the Law on Commercial Companies the foreign entity has to appoint a branch administrator.

Unlike in the case of corporations, the Head Office of the foreign entity is liable for all obligations assumed by the branch or the local representative. In addition, the foreign entity can be validly summoned in Uruguay by suing the branch.

The branch may remit earnings to its home office without any restrictions whatsoever (term, amount, etc.).

Accounts indicating the balances between branches and home offices or other branches are considered capital accounts. Nevertheless, transactions arranged under the same commercial and financial conditions, either at sight or on time, as would prevail between legally and economically independent persons may be shown as asset or liability accounts for tax purposes.

Please note that under Uruguayan law, non-resident companies are considered Permanent Establishments liable for THE Economic Activities Income (IRAE).[4]

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3 Law No. 16,060 of November 1, 1989, Articles 192 to 198.

4 Artic|le 10, Title 4 Tax Amendment Text 1996.

I.2.4 Investment Funds and Trusts

I.2.4.1 Investment Funds

Law 16,774 (passed on September 1996) created the Investment Funds. Prior to this date, no legal provision referred to Investment Funds in the Uruguayan legislation.

Under the aforementioned law[5], the Investment Funds do not have legal personality and are made of securities of several kinds owned by different investors. The law that created the Investment Funds modified the traditional concept widely accepted in Uruguay of one person-one equity. After law 16,774 was passed, a new legal concept was born in the Uruguayan legislation, which is the "equity for a specific purpose".

The assets held in the Investment Fund are managed by a corporation whose only purpose is to manage and represent such fund taking all the commercial decisions in connection with it.

The assets included in the Investment Fund will not be executed in any case by any of the investor's creditors. Up to the expiry date of the fund the investors are co-owners of all the assets included in the fund. However, the share of each investor in the fund (represented by negotiable bonds) can be executed by its creditors.

All the matters referred to Investment Funds are subject to the CBU's control and regulation.

I.2.4.2 Trusts

The legal framework of Trusts is given by Law N° 17.703 dated October 27, 2009, as amended and regulated and also the regulations issued by the CBU available at www.bcu.gub.uy.

In general terms it could be said that Trusts are legal acts whereby the Trustor transfers ownership of certain assets and/or rights to another person (the Trustee), who may dispose of the assets and exercise the rights for certain pre-established purposes, for the benefit of a third person (the Beneficiary).

I.2.5 Free-Zone Companies (Tax-Free Zones – Law 15,921-December 1987)

I.2.5.1 General concepts

a) It is a general regime, which governs all Tax-Free Zones existing in the country or to be installed in the future.

[5] Law No. 16,774 of September 1996.

b) Tax-Free Zones may be installed anywhere in the Republic. It is no longer a legal requirement for them to be located near harbors, airports, international bridges, frontiers or main access ways. The only requirement is that the limits of the Free Zone areas should be clearly defined, marked and fenced in, so as to ensure their adequate separation from non-tax-free territory.
c) The areas intended to become Tax-Free Zones may be governmental or privately owned by individuals or legal entities, whether foreign or Uruguayan.
d) The operations which may be performed at Tax-Free Zones cover a wide range of activities, from the mere free deposit to the rendering of services, including financial and insurance services, handling, classification and selection, of the deposited goods, and the establishment of manufacturing industries and professional services.
e) Extensive tax benefits are granted to Tax-Free Zone users (see paragraph II.9).
f) Tax-Free Zone user companies may not perform any industrial, commercial or service activities in non-Tax-Free territory.
g) The procedures for incorporation and operations of this kind of corporations (users) are similar to those described in I.2.1, I.2.2. or I.2.3.

I.2.5.2 Activities to be performed in the Tax-Free Zones

The law, upon generically establishing that industrial, commercial and service activities may be performed within the Free Zones, specifies certain activities, such as:

a) Marketing, deposit, storage, conditioning, selection, classification, fractionating, assembly, disassembly, handling or mixture of goods or raw materials of national or foreign origin.
b) Installation and operation of manufacturing enterprises.
c) Rendering of financial computer repair and maintenance, issuance and professional services and any other services which may be required to achieve a better performance of the activities installed and the sale of such services to third party countries.

Any other activity which at the discretion of the Executive Power may be deemed beneficial to national economy or for the economic and social integration of different countries may be carried out within the Free Zones.

I.2.5.3 Operators and users of Tax-Free Zones

a) Operators

Operators of Tax-Free Zones are those who provide the user with the necessary infrastructure for the installation and operation of the activities to be performed within the Free Zone.

The Government, or any private parties whether individuals or legal entities, national or foreign, may be Free Zone operators.

Private operators are not covered by the exemptions and benefits of the law, but they may nevertheless be protected by any other promotional regime that may be applicable.

b) Users

Users are any individuals or legal entities who may acquire the right to perform any of the activities admitted by the law within Tax-Free Zones.

There are two types of users: direct and indirect users.

A direct user is the one who acquires the right to operate within Tax-Free Zones through an agreement entered into directly with the Operator, or the Government or a private party; and an indirect user is the one who acquires the right to operate through an agreement entered into with a direct user.

Both need the approval of the Direction of Tax-Free Zones to enter into agreements and then register the same with the Free Zone Direction, and both also enjoy all the benefits that the law may determine.

The procedure to be qualified as a user is provided for by Regulatory Decree No. 454/88 in its articles 23 and 24. We may distinguish on the one hand, the procedure to be followed to become a direct user of a Tax-Free Zone owned by the State and on the other hand the procedure to be followed to be a direct user of a Tax-Free Zone owned by a private party, or to be an indirect user (of State or privately-owned Tax-Free Zones), or to make assignments of user agreements.

In the first case (a direct user of a State-owned Tax-Free Zone), the applicant must file an application with the Direction of Tax-Free Zones, which shall be accompanied by an Investment Project and shall include any other requirements established by the Direction.

The purpose of the application is to acquire priority rights to the chosen areas. Such priority is onerous, the Direction setting the price and conditions. Should the application be denied, the deposited sum shall be immediately returned to the applicant; if it is accepted, such sum shall be considered as part of the security which the Executive Government may require from the users.

In the case of direct users of privately-owned Tax-Free Zones, indirect users, and assignees of user agreements, the procedure is simpler, the only requirement being to submit a draft of the agreement to the Direction of Tax-Free Zones who may require additional information before authorizing the assignment.

I.2.5.4 General tax exemptions for users of Tax-Free Zones

Companies operating as users of the free-trade zones are tax-free. Social security taxes, as well as withholding taxes on dividends or profits remitted abroad when applicable, are excluded from this exemption.

All the goods entering the free trade zones are free of all import duties as well as any other taxes, rates and charges. When the goods are of Uruguayan source, their entrance to the free trade zones is treated as Uruguayan exports. Goods, services, merchandise and raw materials entering the free trade zones as well as products manufactured therein may be freely shipped abroad at any time.

The export to the Uruguayan territory of goods stored or manufactured in the free trade zones, is considered as an import to the MERCOSUR area.

I.3 Regulation of Business

I.3.1 Foreign Investment

Uruguayan authorities encourage all investments, without discrimination between local and foreign investors. The incentives for investments are available for both. Furthermore and under the Investment Law[6] the remittance of profits and repatriation of capital, are guaranteed.

The tax system does not discriminate nor favor against foreign investment. However, the tax burden is influenced by the legal vehicle adopted to perform activities in Uruguay. An appropriate tax advice is therefore essential.

Investment incentives are equally available to foreign investors as well as to Uruguayan. There are certain areas in which a beneficial treatment is established in activities that are declared to be of national interest within the framework of the Industrial Promotion Law[7]. Incentives mainly take the form of tax incentives.

To be declared as of national interest by the Executive Power, the planned activity must comply with the general objectives established by government economic and social policy. The tax incentives may vary between partial exemptions and overall exemptions of all types of taxes.

To qualify for the declaration of "national interest" by the Executive Power, the applicant must submit a specific investment project and should comply with at least one of the following conditions:

a) To reach maximum production and marketing efficiency based on adequate levels of capacity, technology and quality.
b) To increase and diversify exports of industrialized products incorporating the highest possible Uruguayan added value to the raw materials.
c) To locate new industries and expand or reform the existing facilities, taking better advantage of the region's raw materials, markets and available labor force.
d) Unexplored local raw materials improving local products.
e) Enhance the tourism activities, improving tourist facilities.

I.3.2 Currency and Exchange Controls

The Uruguayan exchange market operates under complete freedom of transaction and holdings in currency and metals.

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6 Law No. 16,906 of January 20, 1998; Decree Regulation No. 92/98 of April 28, 1998.
7 Law No. 14,178 of March 28, 1974; Title 3, *Texto Ordenado* 1996, articles 54 to 60.

In line with the 1974 financial reform, Uruguay has adopted a foreign exchange policy that complements the framework of liberalization of the economy. The multiple controls previously regulating the exchange market were withdrawn in successive stages. Thus, measures eliminating barriers and quotas on foreign trade were approved at the outset of 1974. That same year the financial exchange market was liberalized, and the purchase of foreign exchange for establishing positions was authorized. In the mid-1975 the demand for foreign exchange was totally liberalized, and the commercial market was governed by a fixed rate of exchange set administratively and periodically.

In 1978, unification of the commercial and financial markets, whose exchange quotations had coincided for some time, was approved. The CBU began to announce in advance the exchange rate under a system of periodic mini-devaluations for a variable period of three to six months.

At the end of 1982, as a result of the imbalances of the Uruguayan economy, management of the foreign exchange position was modified. The pre-announced crawling peg system was abandoned and a float system was established, which at first was clean and later was subject to some intervention.

Since the end of the first quarter of 1983 up to June 2002, the exchange rate has been determined by a quasi-float system in which interventions are made by the state commercial bank -*BROU*-, in coordination with the monetary authority. Such interventions seek to eliminate seasonal fluctuations so, that the exchange rate varies as a function of the evaluation of internal prices, with deduction of external inflation through the party of purchasing power in relation to a set of countries. From June 2002, the exchange rate is free with no intervention from the government.

Similarly, there is a total freedom in transfers and remittances to and from the country in any currency.

I.3.3 Imports and Exports

Exports and imports are totally free from quota systems and legal limitations. Importers and exporters must register with *Banco de la República* in order to act as such. (There are no special requirements.)

A drawback system exists for some exports. Permanent entry into the country of goods manufactured abroad, for own or third-party use, with the exception of those brought into free zones, are subject to a compound tariff. This rate, which ranges from 6% to 20%, is composed by the Single Customs Duty and the Import Surcharge.

Certain goods are not subject to the compound tariff because they are negotiated through bilateral agreements with different countries. Preferences exist for the MERCOSUR countries, which in some cases are as much as 75% of the compound rate.[8]

A temporary entry system exists for goods such as: a) raw materials, b) recipients and shipping material, c) matrixes, molds and models to be incorporated in industrial processes geared to exports, d) display merchandise.

There are also temporary admission systems for certain activities or specific projects (for example, public works to be carried out by private companies, projects having national interest status, etc.).

I.3.4 The Uruguayan banking system - A summary

The Uruguayan banking system is organized by Law Decree 15,322, as amended by several laws including law 18.401 (the CBU charter).

The Uruguayan system allows entities to operate as full branches of foreign banks or, alternatively, as local subsidiaries of foreign companies or banks.

Banks, financial houses and offshore banks perform "financial intermediation", which activity requires a license granted by the CBU.

Law Decree 15,322 defines "financial intermediation" as "*the carrying out, in a professional and customary way, of intermediation activities or mediation between the offer and demand of securities, money and precious metals*".

According to the current regulatory system, only banks are allowed to perform the following operations or transactions:

- Receiving current account deposits and authorizing drawings thereupon by means of checks;
- Receiving sight deposits from residents and receiving sight deposits in local currency from non-residents;
- Receiving time deposits from residents; and
- Using the expression "Bank" in their denomination.

Financial houses are defined as those companies authorized to carry out any kind of financial intermediation operation, except for those reserved to banks. Hence, financial houses are allowed to:

- Receive time deposits (over 30 days) from non-residents, either in foreign or local currency.
- Receive sight deposits (less than 30 days) from non-residents, in foreign currency.

[8] MERCOSUR Agreement, dated March 26, 1991.

Finally, off shore banks (or “IFEs” according to their acronym in Spanish) were created under Article 4 of Law Decree 15,322 and are defined as those entities whose only corporate purpose consists in carrying out intermediation activities regarding the offer and demand of securities, money or precious metals located abroad.

Strict compliance with this “exclusive purpose” enables said institutions to benefit from the tax advantages established under the same article: they “*shall be exempted from all tax obligations levying their activity, their line of business, net worth or income.*” Since such entities are allowed to operate with no residents only and authorized to hold assets located abroad, said concepts have been thoroughly regulated to determine which entities, individuals and/or transactions qualify as “no residents”/ “assets located abroad”, to these effects.

Additionally, off shore banks have also been authorized to operate from free trade zones (provided that they also constitute free trade zone companies), thus enabling such entities to additionally engage in financial intermediation with other free trade zone companies.

All banking licenses are granted by the Uruguayan Government with the CBU’s prior authorization. Applicable statutes provide that in order to obtain the Executive Government's approval, as well as the CBU's authorization, legality, adequacy and convenience considerations should be taken into consideration.

In addition, section 10 of Law Decree 15,322 provides that the Government may not grant authorizations to operate as a bank in excess of an annual amount equivalent to 10% of the number of banks that existed during the immediately preceding year.

The CBU, as supervising entity, overlooks the financial entities and is vested with the authority to impose minimum capital requirements, liquidity ratios, reserves, maximum exposures, debt ratios, etc, all in line with the Basle Convention principles. Additionally, the CBU’s prior authorization needs to be sought for any merger, spin off, share transfer, capital increases and/or other by laws amendments affecting or involving financial institutions.

Since the ‘60s, Uruguayan banks are prohibited from investing in securities or companies beyond the banking specific purpose, thereby mirroring the US system following the 1929 crisis. Although such restrictions were partly released in 1996 (through the permission to invest in publicly registered debt instruments “Obligaciones Negociables”), banks are still impeded to divert resources in unrelated activities or ventures, the exception being solely those companies that perform bank-related activities (like credit card processors, ATM administrators and stock exchanges).

I.3.5 Free Trade and Preservation of Free Competition

The bill "Free Trade and Preservation of Free Competition Act" -governing issues related to the defense of competition- was approved by the Legislative Power and became a law on July of 2007.

Section 1 of the Act establishes that the Act is of a public nature (being the application thereof mandatory) and aims at "fostering the well-being of current and future consumers and users,

through the promotion and defense of competition, incentive to economic efficiency and freedom and equality in conditions of access of companies and products to markets".

From the global reading of the purposes mentioned in the Act (well-being of the current and future consumers, incentive to economic efficiency and equality of access of companies and products to markets) it is possible to conclude that the proper operation of the market is the end objective to be achieved, being such the objective of this kind of rules in several jurisdictions with similar provisions.

According to Section 3 of the Act, the principles and rules of free competition are applicable to all persons who develop economic activities for profit or not for profit purposes, within the Uruguayan territory, be them individual or legal entities, either public or private, national or foreign.

In the application of the above-mentioned principles, the Act prohibits: (a) the abuse of a dominant position, and (b) all practices, behaviors or recommendations, both individual or concerted; provided that they have as effect or object to restrict, limit, hinder, distort or impede the current or future competition in the relevant market. Furthermore, in order to assess the behaviors indicated in letters (a) and (b) above, the enforcement agency "may take into account whether such practices, behaviors or recommendations generate economic efficiency gains for the individuals, economic units and companies involved, the possibility of obtaining them through alternative means and the benefit transferred to consumers" .

All persons (individuals or legal entities, either public or private, national or foreign) will be achieved by these rules, except for the limitations established by law for reasons of general interest. It is stated, conveniently in our opinion, that the companies which benefit from certain privileges of a legal origin and to the extent they exercise such privileges, will not be deemed as incurring anti-competitive practices or abuses of a dominant position. Therefore, in case a company exceeds the scope of the privilege granted, may be achieved by the Act and be liable to the application of penalties.

I.4 Labor relations

In Uruguay there is neither a labor contract law (act) nor a labor code. The rules that govern employment are scattered in different texts of various hierarchies. Therefore, there are constitutional rules, others from a legal source, provisions passed via decrees of the Executive Power and, finally, conventional rules.

The principle is that labor rules are public policy thus the flexibility scheme provided by the texts is very limited.

Labor relations are also ruled by Collective Agreements entered into unions and employers. It must be pointed out that the collective agreements apply to all the employees even to those that are not members of the union. Moreover, it should be noted that judiciary's opinion and specially the books of authority are highly important.

The unions are strong and well organized in the industrial sector. Generally all the workers of the same sector are organized under the same union. Therefore the agreements are entered into between all the employers of the sector and the union.

Collective agreements rule about salary and other related matters such as working conditions, fringe benefits and provisions for salary increase.

Labor contracts are entered into within a private level, between the employee and the employer, with no obligation whatsoever as to the registration or entry before the Ministry of Labor.

The rule related to the duration of the contract is the hiring without time limit. Therefore, even if it is not a requirement of formality, contracts for a specified term should be entered into in writing. For the hiring for a specified term to be valid, there should be a justifiable ground. Said ground lies on the actual duration of the specific work to be done.

As regards the maximum duration of the contract for a specified term, there is no regulation whatsoever. Books of authority in Uruguay and the Uruguayan Judiciary state that the maximum term should be that of the duration of the hired work. Consequently, the term should be fixed for each specific case.

It is widely admitted in Uruguay, and for all labor categories that prior to the employee's final incorporation to the company, a probation contract should be entered into. Due to the fact that probation contracts are not presumed in Uruguay, they should be necessarily agreed upon in writing.

With reference to its duration, it is stated that the maximum term for a probation contract should not exceed three months. During said term, the contract can be rescinded at any time and with no expression of cause. Its termination does not bring along any dismissal compensation whatsoever. Obviously, either in the case of termination of contract before the term is completed or of no confirmation of the employee hired on probation, at said time the accrued leave, holidays salary as well as the annual bonus supplementary wage ("the 13th salary") must be paid.

I.4.1 Working hours and overtime

The regulation of working hours applied to the commercial sector is 44 weekly hours and the limit of the daily hours of work is eight hours. In the industrial sector the working hours applied is 48 weekly hours, and the daily limit is of eight hours.[9]

The weekly rest in commerce is 36 hours. Generally speaking, this is taken from 1:00 p.m. on Saturday all through Sunday. It is possible to agree other days to rest provided that its duration is of 36 consecutive hours.

[9] Law No. 5,350 of November 17, 1915.

The weekly rest in the industrial sector is 24 hours, and it is taken on Sundays.

Furthermore, in both sectors there should be a period of rest in between the working hours, which should be taken between the fourth and the fifth hour in commerce, and at the fifth hour in the industrial sector. Its duration may last from thirty minutes to two hours and a half. The thirty-minute rest is paid, being considered as worked time. The one-hour rest might not be paid if agreed in writing upon by the parties. That of two hours and two hours and a half are never paid.

All working time exceeding the maximum limit of the daily working time applicable to each employee is regarded as overtime.[10]

Extra hours have a different surcharge rate depending whether they have been done during a working day or a holiday. The formers are paid double. The latter are worth three times and a half the price of the ordinary hour on a working day.

The amounts paid as overtime are intrinsically considered salary, thus they should be taken into account for the calculation of the remaining labor credits, including dismissal compensation.

The exceptions to the above are, among others, the higher company personnel, that is, those who hold a higher position to the Chief of Department, professionals, highly specialized experts, commercial travelers, in other words, those who arrange sales outside the companies' building.

I.4.2 Annual bonus supplementary wage

It is a special bonus equivalent to one twelfth of the total salaries paid in terms of money by the employer, in the period that runs from December 1, of one year to November 30, of the following year.[11]

Its payment is effected in two parts. The first one is paid in June and corresponds to what was earned from December 1 until May 30. The second one is paid between December 14 and 23, including what was earned in the remaining considered period.

I.4.3 Holidays

Every employee who completes one-year work is entitled to take in the coming year a 20-day paid holiday.[12]

In case that in the considered period (January 1 to December 31) the employee does not reach one-year work, he will have the right to take a holiday proportional to the worked period.

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10 Law No. 15,996of November 17, 1988.
11 Law No. 12,840 of December 22, 1960.
12 Law No. 12,590 of December 23, 1958.

Furthermore, every four years as from the fifth one extra day of holiday is accrued as seniority.

I.4.4 Holiday salary

It is an amount of money received by the employee before starting the holidays, which aims at a better enjoyment of them. This benefit is equivalent to the net day's wage of holiday. That is to say, the same is obtained by deducting from the holiday's wage, the total contribution to social security, to which the salary is subjected.[13]

I.4.5 Fringe benefits

Voluntary fringe benefits are not very common. The most usual are the payment of meals in money or by luncheon tickets, the payment of tickets of health care organizations for the family of the worker, additional year-end bonuses and the use of company cars and the payment of the house rent for senior management.

I.4.6 Mandatory Profit Sharing Contributions

In Uruguay there are not mandatory profit sharing contributions.

I.4.7 Severance Issues

The principle in terms of dismissal of monthly paid employees is the inexistence of a waiting period. That is, the employee as from the very first day of work is entitled to receive dismissal compensation. There is no rule imposing the obligation of notice of discharge.

I.4.7.1 General system regarding dismissal compensation

When the labor relation is terminated by dismissal the employee is entitled to receive compensation except for the case where there has been a dismissal for cause (which in our system implies notorious misbehavior).

In the case of monthly paid employees this compensation is equivalent to one month for every year or portion worked, with a maximum limit of six month-pay. It should be noted that the term monthly payment includes not only the salary but also any salary remuneration earned by the employee (overtime, commissions, portion of holiday salary, accrued leave, 13th salary, etc.).

[13] Law No. 16,101 of November 10, 1989.

The monthly paid employees do not have a waiting period so as to be entitled to dismissal compensation; that is the portion can be from one day to eleven months.

I.4.7.2 Special dismissal systems

- Pregnant employee

In case of dismissal, a pregnant employee or recent mother is entitled to an additional compensation equivalent to six months salary. This compensation, which is objective, is only lost in case of dismissal for cause (notorious misbehavior).

The right to this compensation is acquired from the moment the employer gets to know about the pregnancy and up to a certain period of time after the woman has returned from her maternity leave.

This term, which is not defined by law, has been established by the majority of the Uruguayan Judiciary, in six months.

- Sick employee

The employee who suffers from an illness cannot be dismissed neither during the period in which he is entitled to the corresponding health insurance, nor during the next thirty days, excepting the case of dismissal for cause (notorious misbehavior) or cause unrelated to the illness. If this prohibition is violated, the employee has a right to a compensation that doubles the ordinary one.

- Employee who suffers a labor accident

Every employee who suffers an employment related accident or a professional illness cannot be dismissed, neither during the period in which he is entitled to the corresponding insurance nor during the 180 days after medical discharge. If this prohibition is violated, then the employer will face two different kinds of compensation depending on the time when the dismissal takes place.

In case the employee is dismissed after the medical discharge, but before his/her actual return to the job, the employer must pay three times the ordinary compensation. If the dismissal takes place within the 180 days after the return, the employee is entitled to claim the fixed ordinary compensation and all the remaining wages until the period is completed.

- Anticipated rescission

In case of termination of a contract with a specified term because of the employer's decision, before the contractual term is over; then the employee has -according to the majority of the Courts- the right to claim as a dismissal compensation, the remaining wages until the contractual term is completed: that is, the salary and other labor credits which correspond to the period which goes from the anticipated rescission of the labor contract, until the termination of the contractual term duly agreed.

I.4.8 Social Security System (SSS)

The SSS covers retirement pensions, health insurance, sick pay and unemployment. The system is compulsory.

The patronal and personal contributions to the SSS, are based on the salary earned by the worker.

The company must also pay to *Banco de Seguros del Estado* an insurance for work related accidents. The cost of this insurance depends on the activity of the company and is proportional to the amount of the total salaries.

I.4.9 Foreign workers

There is no limitation for foreign people to work in Uruguay. In order to work in Uruguay, foreigners must obtain legal residence and a medical certificate of good health.

Foreigners are included in the social security system, so the company must make the contributions for their salaries.

I.4.10 Dispute settlement

All the suits arisen out of labor relationships are subject to the competence of the labor courts with an special judicial proceeding[14] that essentially is structure in shortness terms for all parties than in the common judicial proceeding and in a single hearing, on behalf of what the judge must decide. This kind of courts deals with individual labor conflicts. Uruguayan labor law and also labor courts are influenced by the principle of "*in dubio pro operario*", that means a general orientation of the law and the jurisprudence aiming the employee's protection.

Law Number 18.566 has created a Collective Negotiation System ("*Sistema de Negociación Colectiva*") on behalf of which collective disputes between companies and employees may be settled. This legal method is based on a negotiation system between companies, employees and representatives of the Labor Ministry.

Finally, the Labor Ministry behaves as a mediator between the unions and the enterprises but its decisions are not mandatory. Its function consists on approaching the parties and to serve solving the conflicts.

[14] Laws Numbers. 18.572 and 18.847 of October 8, 2010.

II SOCIAL SECURITY CONTRIBUTIONS – LABOR LEGISLATION

II.1 General aspects of the Social Security System

II.1.1 Attributes of its structure

Starting on April 1, 1996 - date in which the Law 16,713 of September 3, 1995 took effect - the Social Security system ceased to be government-owned to become a mixed system, in which the State is integrated through a system of intergeneration solidarity and the "*Administradoras de Fondo Previsional*" (*AFAP*) in a system of individual savings. The worker's choice between the saving by intergeneration solidarity and the individual one will depend on the age of the person, his salary level and on the possession or non-possession of retirement conditions on the date in which the Law 16,713 took effect.

II.1.2 Contribution levels

Three contribution levels are thought to be established on the basis of the amount perceived by the employees.[15]

The first is a state level, based on the distribution system, organized by the "*Banco de Previsión Social*" (hereinafter ***"BPS"***) and includes all the employees because of their remunerations or sections of them up to US$ 1,480 approximately.

The second level refers to the retirement system by individual saving, and includes in a compulsory way the remunerations section between US$ 1,480 and US$ 4.440 . This level is organized through the so-called *AFAP*, and it is exclusively financed by the personal contribution.

People that perceive remunerations up to US$ 1.480 have the possibility to be included in this level, but through a voluntary affiliation. This option will be done up to the 50% of their remunerations.

The third level includes the remuneration section that exceeds US$ 4.440. This section is also organized through the "*AFAP*" but the affiliation is voluntary.

We stress that there is a recent law that authorizes the revocation of the aforementioned options by fulfilling certain requisites.

The employee contribution is done over the total amount perceived by the employee for all the activities that the retirement system covers, with a maximum of US$ 4.440. The employer contribution will be done up to a maximum of US$ 4.440.

II.2 Employer contributions

[15] Law No. 16,713 of September 3, 1995.

II.2.1 Types of contributions

Three types of contributions correspond to employers:

a) a contribution intended to finance the state's social security system in general (which comprises retirement provisions, pension, benefits for the unemployed, family welfare, maternity benefits, funeral expenses, etc.);
b) a contribution specifically intended to finance the workers' health insurance;
c) a tax which is charged on all retributions and benefits in cash or in kind received by workers.

II.2.2 Rates applicable

The General Social Security contribution is 7,5%.

The specific contribution for health insurance is 5%.

The rate of the tax on retribution is 0,125 %.

In the case of farming activities the employer's contribution is assessed according to the land held and not to the actual or assessed remuneration.

In addition to the contributions described, employer has to pay an insurance regarding labor related accidents. The cost of the insurance is a percentage of the total amount of the remunerations paid by the company. The rate of the percentage varies depending on the sector of activity.

II.2.3 Base amount for the calculation

Calculations of the above rates are generally made on the worker's gross salary (which includes the sum in cash effectively received plus benefits in kind valued in money, commissions, over-time, productivity, payments, complementary annual wage, etc.).

II.2.4 Time for payments

Within 10 days of the end of the month in which the salaries are generated.

II.3 Employee's withholdings

II.3.1 Types of contributions

The employee should also make the same contributions indicated in III.2.1, and the employer is under the obligation to withhold and pay the respective amounts. The contribution indicated in a), in this case, is intended to finance the state's social security system and the system of individual savings, as described on III.1 above.

II.3.2 Rates applicable

The general contribution to social security is 15%.

The specific contribution to health insurance is 3%, 4,5%, 6% or 8% (depending on the employee's salary and the children in his custody).

The tax on retributions is 0,125%.

In addition to these withholdings, the employer has been appointed as surrogate responsible for the Income Tax on Individuals (IRPF) abovementioned.

II.3.3 Base amount for the calculation

The base amounts for the calculation of the rates of reference are those indicated in III.2.3.

II.3.4 Time for payments

As indicated in III.2.4.

II.4 Benefits of the employees

II.4.1 Minimum national salary and Family Welfare

The Government sets compulsory minimum monthly national salaries and daily wages for the private enterprises, which are periodically updated (at present they are equivalent to approximately US$ 367 and US$ 14.68 respectively).

In addition, for each sector of activity Council of Wages establish the minimum salaries for all labor categories.

II.4.2 Complementary Annual Wage

Every employer has the obligation to pay a complementary annual wage equivalent to one twelfth of the total remuneration paid during the previous year (calculated between December 1 and November 30).

This complementary annual wage is paid half in June and half in December.

The contributions and taxes indicated above are also levied on the complementary annual wage, except for the 5% FONASA contribution.

II.4.3 Vacation

Every employee is entitled to twenty consecutive working days of paid annual vacation and to a special bonus (equivalent to his net daily salary, multiplied by the total number of vacation days).

The special vacation bonus is not subject to social security contributions.

Employees are entitled to an extra day of holiday for every four years worked, as from five years of employment.

By collective agreement, the annual vacation can be divided into 2 periods of not less than 10 days each.

II.4.4 Severance compensation

Every employee is entitled to a dismissal compensation (except when it is due to notorious misconduct) consisting in the total remuneration corresponding of one month for every year or portion of the year worked (with a maximum indemnity of six months' pay) calculated on his last effective salary plus every other retribution earned by the employee.

Payment is to be made within ten days of the dismissal. This amount is not subject to social security contributions.

Special compensations are provided for certain cases (e.g. a pregnant woman, illness, labor accident, sexual harassment, abusive dismissal).

II.5 Foreign personnel

II.5.1 Restriction for foreigners to work in Uruguay

In principle there are no restrictions (documents certifying permanent residence in the country and good health are the only requirements), and no differences are made in the labor treatment nor in any other.

II.5.2 Visas

Citizens of the majority of the Occidental countries have free entrance without needing any visa.

Permanent residence permissions are largely given.

Any person who has legally entered the country (even as a tourist) is able to ask for a residence permission and to start working immediately even if the permission is still in process. Transitory residence request lasts approximately three months. A new law stated that permanent residence request for nationals of MERCOSUR countries, in the future would not last more than 30 business days. In case of permanent residence for the remaining countries, currently the request is lasting between 2 and 3 years.

II.5.3 Remunerations. Place of payment.

There are no differences with the local personnel. Their remunerations must fit the minimum requirements in effect.

The payment might be done whether in Uruguay or abroad and in any currency.

II.5.4 Entrance and temporary way out of personal goods

In principle there are no restrictions for the entrance or way out of personal goods (except car).

With the residence provisional visa (even if the permanent residence is not yet given) all the personal effects, furniture, etc (with the exception of vehicles) can be introduced into the country. In that case, the person shall constitute a guarantee at the Customs Direction.

II.5.5 General social taxes preferential system

Does not exist.

II.5.6 Special preferential social security and income tax regime applicable to foreigners who work for a tax-free-zone user

The generic exemption to all national contributions existing now or in the future provided for in law 15,921 does not include Special Social Security Contributions nor non-tax Contributions (in favor of the Bank's Pension Fund, Professionals' Pension Fund and Notarial Retirement Fund).

Whenever the user simultaneously employs both Uruguayan and foreign personnel, the latter may not be required to contribute to the social security system which would otherwise correspond (State or non-State). To these effects it would be necessary for the users to supply the Direction of Tax-Free Zones with a list of foreign personnel in its payroll, and for such employees (individually and under oath) to declare their decision to be excluded from the benefits of the Social Security system in force in the country (foreign personnel should not exceed 25% of the total number of employees of the tax-free zone user; to avoid this limitation, an authorization from the National Tax-Free Zone Department is required).

Regarding the income tax, those foreigners who do not have the Uruguayan Nationality, who rend their services at a Tax-Free Zone in Uruguay, and had been excluded of the Social Security System according to what was stated before, will be able to choose to be taxpayers of IRPF or IRNR, but only regarding the incomes obtained in the dependent relationship they have as employers of an Tax-Free Zone User.

The option mentioned above can only be made regarding the activities that are rendered exclusively at the Tax-Free Zone and only if such activities do not refer, neither directly or indirectly, to services rendered to residents settled outside the Tax-Free Zone.