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**LEGAL ALERT**

## **Amendment to Law No. 20,551, on Closure of Mining Sites and Facilities: Inclusion of insurance policies as A.1 instruments**

### **\*\*Background\*\***

Law No. 20,551 (the “**Closure Law**”) compels Mining Companies, as defined in the Closure Law, to design a series of technical measures and actions that should be implemented at the time of closing facilities and sites in order to prevent, minimize and control risks to the life and integrity of people, and mitigate the operational effects on the comprised environmental components, assuring their physical and chemical stability (“**Closure Plan**”).

Mining Companies subject to the general proceeding, that is, those with an extractive capacity of over 10,000 gross tons/month per site, are required to have a financial guarantee that ensures the State the prompt and total execution of the Closure Plan.

The value of the guarantee should cover the Closure Plan implementation costs, including the administration cost, as well as the post-closure monitoring and control activities.

The guarantee is constituted by fractions or installments. The entire guarantee must be available to the National Geology and Mining Service (the “**SNGM**”) within the first two thirds of the project’s lifespan, if it is less than 20 years; or within 15 years if its lifespan is longer. The calculation of the lifespan of a project is based on its reserves, which must be demonstrated, proven most likely or based on those measured mineral resources, indicated and inferred, if the extractive capacity does not exceed 500,000 gross tons/month per site.

The eligible financial instruments to constitute the guarantee are classified, according to their liquidity, into instruments A.1, A.2 and A.3. Instruments A.2 and A.3 are only provisionally accepted. The definitive guarantee must be composed only of instruments A.1, which include certificates of demand deposit,

performance bonds and standby letters of credit.

### **\*\*Modification\*\***

On July 18, 2019, Law No. 21,169 was published in the Official Gazette, which amends this regulation, introducing the following reforms:

1. Inclusion of first demand insurance policies issued by national insurance companies within the A.1 category, which may not oppose exceptions that condition or defer the payment of compensation to the SNGM. This will allow Mining Companies to comply with regulations without freezing large capitals or consuming their credit lines;
2. Establishing the duty to request authorization from the SNGM to make changes or alterations to the identity and validity of the A.1 financial instruments that compose the guarantee; and
3. With respect to companies whose closure plans have been approved in accordance with Title X of the Mining Safety Regulation, it replaces the first periodic audit of their plans with the obligation to update them within the same 5-year term.

### **\*\*Validity\*\***

These modifications will enter into force once the regulation that establishes the requirements and conditions the insurance policies must meet, as well as the risk classification that insurance companies must comply with, is published.

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