

CRIMINAL OFFENSES UNDER THE ARMS CONTROL LAW ARE ADDED TO CORPORATE CRIMINAL LIABILITY LAW

On January 25, 2022, Law No. 21,412 (hereinafter, the "New Law") entered into force, which amends: (i) Law No. 17,798 on Arms Control; (ii) Law No. 18,216 which establishes alternative penalties to custodial or restrictive sentences; (iii) the Criminal Procedure Code; and (iv) Law No. 20,393 on Criminal Liability of Legal Entities.

The New Law (i) incorporates new prohibited weapons; (ii) increases the penalties for certain crimes; (iii) includes special investigation techniques; (iv) increases the requirements to possess a weapon; (v) introduces mechanisms for the traceability of weapons; (vi) incorporates the authority's faculty to cancel the registry of a weapon for sentences of crime, misdemeanor or family violence; (vii) adds the obligation to annually update the National Registry of Weapons Registrations; (viii) reduces the limit of weapons that a person may have registered; and (viii) strengthens the powers of control by the police.

The New Law also amends Article 1 of Law No. 20,393, including within the catalog of predicate offenses that may trigger the criminal liability of legal entities those contemplated in Title II of Law No. 17,798 on Arms Control.

Title II of Law No. 17,798 on Arms Control contains a series of conducts constituting criminal offenses, among which are: the carrying, possession, commercialization, import and internment into the country of prohibited or controlled arms, devices and ammunition; the creation, organization, financing and operation of private militias or militarily organized groups; sending, activating, detonating, throwing, shooting, exploding or placing bombs or explosive, incendiary or corrosive artifacts in, from or to public roads, public buildings or buildings of free access, or in public transportation and facilities; the breach of confidentiality by the corresponding authorities in relation to the records, background and investigations related to arms control; the abandonment, carelessness or negligence related to the custody of weapons on the part of the

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person who is registered and that triggers an illicit event; among others.

With the entry into force of the New Law, these offenses becomes susceptible to trigger criminal liability to the companies, which in case of being convicted, may be subject to the following sanctions: prohibition to enter into acts and contracts with the State; loss of tax benefits, either total or partial; fines for tax benefit of up to 300,000 Monthly Tax Units (approx. USD\$20,500,000); dissolution or cancellation of the legal entity, and ancillary penalties such as the publication of the sentence in a newspaper of national circulation, confiscation and the entire investment made in tax coffers.

Due to the entry into force of the New Law, legal entities must incorporate in their risk matrices all those processes and sub-processes that may be risky from the point of view of the criminal offenses found in Title II of Law No. 17,798 on Arms Control. Additionally, legal entities must adopt and implement control measures (policies, procedures, protocols) to counteract the referred risks in their Crime Prevention Models according to their specific reality.

Law No. 21,412 can be downloaded in the [following link](#).

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