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NEW LAW MODIFIES 30-DAYS PAYMENT SYSTEM

On April 3rd, 2020, a new Law that amends Law No. 19,983, which regulates the transfer and grants direct enforceability to the copy of invoices, on certain aspects that were recently amended by Law No. 21,131 on 30-days payment, was enacted.

The most relevant modifications introduced by this Law aim to benefit small sized businesses (micro, small and medium sized businesses as per defined in Law No. 20,416, also known as Small Business Statute) in connection to payment for the products or services they sell or provide.

This Bill of Law sets forth a prohibition of entering into "exceptional payment term agreements" (those that allow establishing payment terms that exceed the legal term), when the seller or service provider (party that issues the invoice) is a small sized business and the buyer (debtor of the invoice) is not. Nevertheless, these agreements are allowed when the exceptional payment term is stated to benefit the small sized business and only in cases that consider the performance of tests, up-front, partial or down payments.

Moreover, the Law provides that the information contained in the "exceptional payment term agreements" registry, carried by the Ministry of Economy, shall be public regarding the information of the buyers or beneficiaries of the service, the existence of the agreements and the agreed payment term, based in the information declared in the registration form.

Finally, the Law incorporates a new "abusive clause" scenario, setting forth that those provisions that "Have the sole purpose of delaying the payment of the invoice, by establishing payment in installments", shall be null and void, unless a small sized business is involved, in the aforementioned terms.

This Law will enter into force 60 days after its enactment.

Nevertheless, the provisions regarding payment terms contained in exceptional payment term agreements executed between small sized

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businesses (acting as seller or service provider) and large companies (acting as buyers or beneficiaries of the services), registered prior to the entry into force of the Ley, will be subject to the following rules:

• If they do not comply with the above stated requirements (longer terms is set to benefit the small business and the performance of tests, up-front, partial or down payments), will be deemed as void, and the legal 30-days payment term shall apply.
• If they do comply with such requirements, in order to continue in force, the Law sets forth an obligation to update the registration, within a 90- days term, counted from the enactment of the Law, through a procedure that will be determined by the corresponding regulation.

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