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AGREEMENT WITH REPSOL

The Argentine Government and Repsol have entered into a contract called “Expropriation Amicable Solution Agreement” governing the compensation for the expropriation of 51% of Class “D” shares in YPF S.A. under Law No. 26,741 (the “Agreement”).

The Agreement was approved by Repsol Board of Directors and ratified at a Repsol General Shareholders’ Meeting on March 28.

In Argentina, the Agreement has gone through two stages, i.e. approval by YPF S.A. Board of Directors and by the Congress, through Law No. 26,932.

The law has not only ratified the Agreement, but also authorized the issuance of sovereign debt to pay the compensation agreed upon with Repsol. The payment will consist in the issuance of sovereign debt with a par value of USD 5 billion plus an additional issuance if the amount of bonds sold within 90 days before does not reach, on average, a market value of USD 4.67 billion, as long as the nominal value of the bonds issued is not higher than USD 6 billion.

In the issuance of such bonds, it is essential that the Argentine Congress approve the issuance of sovereign debt because, pursuant to the Financial Administration Law, No. 24,156 (the “LAF”, for its Spanish acronym), and its regulatory Decree, No. 1344/07 (the “RLAF”, for its Spanish acronym), no sovereign debt transaction (like the one discussed herein) may be carried out unless it is provided for in the general budget law or in a specific law. Since the payments to Repsol were not included in the 2014 general budget law, a specific law must be passed approving the issuance of such debt. Any breach of the LAF or the RLAF will adversely affect the validity of the bonds, rendering them null and void.

YPF and Repsol have also reportedly reached an agreement on the abandonment of court claims between them and regarding third parties, including certain mutual waivers and indemnities. As an additional guarantee, the Argentine Republic acknowledges that, in the event of debt restructuring or non-payment of the bonds, Repsol may accelerate the debt and commence an arbitration procedure subject to the UNCITRAL rules.

This Agreement puts an end to the expropriation process and may be considered a signal to encourage the arrival of new investors in Argentina to develop unconventional resources.

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ARGENTINA LAUNCHES BIDDING PROCESS FOR THE INSTALLATION OF 4G TECHNOLOGY

On May 13, 2014, the Ministers of Economy and Planning informed that Argentina will open a first bidding process regarding the radio-electric spectrum for the installation of 4G technology. The officers have informed that the bidding process will involve two bands - of 1700/2100 and 700 megahertz (Mhz) - to be used for the installation of 4G technology throughout the national area, and will be open for national and foreign companies.

According to the information provided, the bidding process will also include blocks for 3G technology which are currently not being used.

4G Technology

In the telecommunications industry, 4G is an acronym that stands for the fourth generation of mobile telecommunications technology.
4G technology is the successor of the 2nd Generation (2G) and 3rd Generation (3G) network technologies, the latter being the most advanced technology in use in Argentina today.

Similarly as in the other generations, the IMT-Advanced Committee of the International Telecommunications Union (ITU), of which the industry forms part, defined the necessary requirements for a standard to be considered as 4G.

One of the technical requirements, among others, that appears to be of the utmost significance, refers to the peak speeds for data transmission that have been set at 100 Mbits/s for high mobility communications and 1 Gbit/s for low mobility communications.

The main difference between 4G technology and its predecessors shall be the ability to provide access speed higher than 100 Mbit/s (in movement) and 1 Gbit/s (standing still), thus ensuring premium quality and high security that will facilitate the provision of services of any type, at any time and anywhere, at the lowest possible costs.

The Wireless World Research Forum (WWRF) intends that 4G should be a combination of technologies and protocols rather than a single standard, similar to 3G that currently includes technologies such as GSM and CDMA.

NTT DoCoMo in Japan was the first company to conduct experimental trials with fourth generation technologies, featuring speeds of 100 Mbit/s in a vehicle running at 200 km/h. In December 2010, the Japanese company launched the first 4G services based on LTE technology in Tokyo, Nagoya and Osaka.

Radio-electric Spectrum Regulation

Exhibit IV of Decree 764/2000 sets forth the regulations on Administration, Management and Control of the Radio-electric Spectrum (the “Regulations”).

As concerns the authorizations and/or permits for use of frequency bands, Section 8 of the Regulations provides that the Enforcement Authority shall authorize the use of frequency bands for the rendering of telecommunication services through: i) a public bidding process pursuant to the abovementioned Section; or ii) upon demand.

According to the announcement mentioned herein, in order to install 4G technology, it has been decided to conduct public bidding processes.

As a general rule, the Regulations provide that the bidding terms and conditions in the public bidding processes to be conducted shall observe the following principles: i) it will be necessary to ask for such information as may be deemed necessary to objectively evaluate the bidders; ii) it will be necessary that the relevant performance bonds be furnished and iii) steps must be taken to prevent undue business concentration in the radio-electrical field and an abuse of dominant position.

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◊ Brazil

The Brazilian Internet Framework

After two years and seven months of negotiations and intense lobbying, the House of Representatives passed, on March 25th, the Bill of Law regarding the Internet Civil Framework[1] (“Brazilian Internet Framework”). The Bill of Law was subsequently approved, on April 22nd, by the Senate and, the following day, enacted by President Dilma Roussef.

The so-called “Internet Bill of Rights” establishes principles, guarantees, rights and duties for Internet Service Providers and will rule the use of Internet in Brazil.

In this regard, the Bill is divided into 5
chapters: Preliminary Provisions, User Rights and Guarantees, Provision of Internet Connection and Internet Applications, the Role of Public Authorities and Final Provisions. The Brazilian Internet Framework is focused on the users’ rights and general principles for the regulation of Internet, as well as to the storage of connection logs, potential liability applicable to Internet Service Providers and web neutrality.

It is worth highlighting the most relevant topics included in the recently enacted text, as follows:

Web Neutrality

One of the key points of the Brazilian Internet Framework, the principle of Web Neutrality prohibits discrimination of Internet users based on the services package contracted with Internet Service Providers (ISP’s). As a result, Internet provider companies shall treat Internet customers under equal conditions of limit and speed, regardless of the category of services contracted.

In other words, this principle states both Internet and its data must be treated in an equally way, not discriminated against or treated differently depending on user or content. The text approved by the Senate only allows such discrimination or degradation in case of technical or emergency matters.

The Web Neutrality is considered a victory for web freedom, since countries as the USA and Canada are heading in the opposite direction. Both aforementioned countries are examples of countries which do not apply the principle of Web Neutrality as a rule. In the USA, for instance, Netflix recently entered into an agreement with Comcast to pay for preferential treatment of Internet traffic with Netflix’s film streams.

Whereas the Internet Service Provider industry in the USA is basically dominated by two companies - Comcast and Verizon -, agreements such as that executed between Comcast and Netflix are very detrimental to ordinary people while allowing discrimination based on user profile and accessed content.

Data Centers Location

Data centers imply that large Internet companies would have to keep a physical structure in Brazil to store data of Internet users. The current Brazilian Internet Framework simply sets forth that the data stored by such companies shall be subject to Brazilian law, if related to Brazilian users or users located in Brazil. Therefore, no requirement that Internet companies keep a data center in Brazil.

Internet Service Provider’s liability

Content providers - websites and apps - will only be liable for publishing unauthorized third-party content if they ignore a court order determining the exclusion of the content. The requirement of a court order before a certain content is deleted serves to delay the removal of the content and to prolong any potential breach to the applicable laws.

In the specific case of pornographic content, the page that provides unpermitted images or videos that infringe the privacy of others is subject to a stricter scrutiny than the general content. In this event, a notification to delete the pornographic content is enough to create liability should the content persist online.

Data Storage

Internet Service Providers will be required to store the Internet Protocol (IP) addresses and times of users' connections for 1 year. In addition, search sites will be obliged to save browsing history for 6 months. It is worth mentioning that before the amendment, the storage was at the discretion of Internet Service Providers and sites.


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On April 4, 2014, President Evo Morales enacted the new Law for the Promotion of Investment (the “Investment Law”). The Investment Law is focused on strengthening Bolivia’s economic independence by encouraging the industrialization of natural resources and developing local technological capabilities and know-how.

The Investment Law provides that the Bolivian State will maintain control over strategic economic sectors including hydrocarbons, water, energy, forests, minerals and the radio spectrum. The State will manage investment in these sectors through public companies or joint ventures in which it is the majority shareholder. Bolivian investment will be given priority over foreign investment, and a corporate entity is considered Bolivian if the majority of its capital is owned and controlled by Bolivian natural persons.

The Investment Law also establishes investment incentives, to be determined by the Ministry of Development Planning, which will be granted to investments related to: (i) industrialization of the natural resources supply chain in the strategic areas of hydrocarbons, mining, energy and transportation; (ii) economic activity in the services or finished goods industries, including tourism, agribusiness, and textiles; and (iii) economic activity geared toward reducing social and economic inequality. The Investment Law maintains the status quo of no restrictions on foreign investment, repatriation of profits, dividends, compensation or other earnings and no foreign currency or exchange controls.

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On the other hand, regular sector-specific permits are given by the same authorities, but they do not have an environmental approval on the background, because they do not have any environmental component that needs to be assessed.

The importance of sector-specific environmental permits is reflected in the close relation that exists between them and the RCA.

In this sense, the RCA certifies the compliance of all applicable environmental requirements set forth in D.S. No. 40 for sector-specific environmental permits. This necessarily means that the sponsor of the environmental permit has previously provided, to the corresponding specific authority (during the environmental evaluation), all the necessary information in order to evaluate and issue some sort of environmental approval for that particular sector-specific environmental permit.

On the other hand, in the Comprehensive Evaluation Report (Informe Consolidado de Evaluación - the “Report”, and the last technical document before the decision to approve or reject the project), the corresponding service duly evidences its favorable decision and the conditions that are imposed over the project so as to allow the permit to be granted, if applicable. On the contrary, if the project fails to comply with the requirements for the granting of the sector-specific environmental permit and, consequently, the service issues and unfavorable decision with regards to the permit, the Report shall duly justify the reasons for such decision.

Year 2010 marks the beginning of a considerable reform of the Chilean environmental institutions, beginning with the amendment of Law 19,300; the creation of the Superintendence of Environment; the establishment of Environmental Courts and, the enactment of the New Supreme Decree for the Environmental Impact Evaluation System: D.S. No. 40.

Regarding the sector-specific environmental permits, several changes were made to the regime that existed under the former SEIA regulation (D.S. No. 95). Indeed, the former regulation only addressed the sector-specific environmental permits in their environmental scope, and it was necessary to resort to the competent sector-specific authority in order to get a complete and usable permit. No classification of permits whatsoever existed that allowed a differentiation of the environmental and the sector-specific scope and, finally, no sector-specific authority was empowered to deny a permit on grounds of an environmental issue, though they usually delayed the granting of the permit by asking for extra legal requirements.

With the enactment of D.S. No. 40, an exhaustive list of the sector-specific permits is added, along with the technical and formal requirements that need to be complied with in order to attest as to their compliance. D.S. No. 40 also introduces a new classification that differentiates between sector-specific environmental permits of exclusive environmental content and mixed sector-specific environmental permits, that is to say, those which possess both environmental and non-environmental content. This classification is of considerable relevance, since it assertively eliminates the need of the second, sector-specific, approval.

Indeed, regarding the sector-specific environmental permits of exclusive environmental content, the RCA shall order that they be granted under the same conditions or requirements, set forth in the resolution. In other words, it shall suffice that the holder of the project or activity, display the favorable environmental qualification resolution for the corresponding sectoral authority to grant the permit, without any further process. In this same fashion, if the environmental qualification resolution is adverse, the relevant authorities shall be forced to deny the requested permits.

As for the mixed sector-specific environmental permits, several changes were made to the regime that existed under the former SEIA regulation (D.S. No. 95). Indeed, the former regulation only addressed the sector-specific environmental permits in their environmental scope, and it was necessary to resort to the competent sector-specific authority in order to get a complete and usable permit. No classification of permits whatsoever existed that allowed a differentiation of the environmental and the sector-specific scope and, finally, no sector-specific authority was empowered to deny a permit on grounds of an environmental issue, though they usually delayed the granting of the permit by asking for extra legal requirements.
environmental permits, if the environmental qualification resolution is favorable, the relevant authorities of the Government Administration shall not be entitled to deny the permits on grounds of environmental requirements. Furthermore, they may not impose new conditions or requirements of an environmental nature, other than those that had already been established in the RCA. Finally, if the RCA is not granted, the competent authorities shall be bound to deny the permits on grounds of the environmental requirements, even if legal or regulatory requirements are fulfilled or met.

Moreover, since the content of the mixed sector-specific environmental permits include both environmental and non-environmental issues, D.S. No. 40 allows the holder to save processing time by submitting the non-environmental information before the relevant Government authority. Said submission must be carried out before the notification of the environmental qualification resolution, specifying the project or activity that is under environmental assessment. However, the sector-specific environmental permit shall only be granted once the holder displays the favorable environmental qualification resolution.

This amendment performed under D.S. No. 40 is aimed in the right direction regarding the regulation of environmental sector-specific permits, since two different permit processing and permit granting realities are acknowledged - something which was previously disregarded - thus providing the system with increased celerity and certainty, both for the Administration as well as for private parties.

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**INDIGENOUS CONSULTATION PROCEDURE REGULATION**

On March 4, 2014, the Chilean Under-Secretariat of Social Services Decree No. 66 which provides for a compulsory indigenous consultation procedure, was published in the Official Gazette and entered into force (the “Regulation”). The Regulation was issued pursuant to Article 6 of the International Labor Organization Convention No. 169 dealing specifically with the rights of indigenous and tribal peoples, i.e., the governments’ obligation to consult the peoples concerned, through appropriate procedures, and representative institutions whenever legislative or administrative measures which may affect them directly (specifically their traditions and ancestral customs) are being considered.

The Regulation main objective is to guarantee indigenous peoples’ participation in connection with Chile’s legislative and administrative acts, promote dialogue, summon and involve all relevant people and their representative institutions. For such purposes, it sets forth the applicable consultation procedure, its minimum stages, basic principles, terms and participating parties which shall apply prior to all legislative and administrative measures that may directly affect Chilean indigenous peoples. Additionally, the Regulation states that consultation is a State’s duty and a right for indigenous peoples. Notwithstanding the foregoing, the Regulation does not require the parties to reach an agreement.

The consultation procedure may be initiated ex officio by the relevant government authority or by request submitted by interested parties or the National Indigenous Development Corporation (Corporación Nacional de Desarrollo Indígena). The procedure involves, among others, the following phases: (i) planning, whereby preliminary information regarding the relevant legislative or administrative measures is provided to indigenous peoples, the participating parties and their representatives are determined, and the manner in which the procedure will be carried out is set; (ii) information delivery and publicity of the procedure’s status, whereby all relevant background information is provided to the involved parties and is kept available and updated in government.
websites; (iii) the internal consideration by indigenous peoples; (iv) dialogue between the parties; and (v) the systematizing and communication of the consultation's results, all of which must be included in a final report issued by the involved parties.

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NEW ACT ON GOVERNMENT AUTHORITIES' LOBBYING

On March 8, 2014, the Act No. 20,730 regulating lobbying and actions on behalf of private interests (the “Act”) was submitted to Congress by the General Secretariat of the Presidency Ministry and published in the Official Gazette.

The Act regulates the publicity of lobbyist activities and other similar activities carried out on behalf of private interests. It aims to strengthen transparency and probity of relations between representatives of such private interests and governmental authorities. For these purposes, the Act defines lobbying as all remunerated activities carried out by individuals or legal entities with the purpose of defending or acting on behalf of any private interest, thereby influencing certain decisions adopted by the relevant State authorities, e.g. ministers, under-secretaries, department chiefs, regional directors of public services, ambassadors, etc. (the “Subjects”).

Among other measures, the Act: (i) creates several public registries that shall include information regarding the Subjects; and (ii) provides obligations and penalties, as set forth below:

1. Public registries. A public registry is created for each of the government entities described in the Act, which must include information regarding: (a) the participating parties, existing remunerations, and private interests involved in audiences and meetings held with the purpose influencing decisions adopted by the relevant State authorities; (b) trips taken by any of the Subjects in exercise of their duties; and (c) official and protocol donations, and any such donations allowed by customs. This information shall be published in the relevant government websites. An additional public registry identifying lobbyists and private interest representatives shall exist for each one of the public registries described above.

2. Obligations. Lobbyists and private interest representatives must: (i) provide the information required by the Act to the relevant authorities; (ii) inform the Subjects with whom they meet of the individuals or entities on whose behalf they appear; (iii) inform the foregoing Subjects if they are receiving any remuneration for their actions; and (iv) when acting on behalf of legal entities, provide the corporate documentation that may be requested.

3. Penalties. If Subjects fail to correctly register the abovementioned information in the relevant public registries, monetary fines established in the Act and/or penalties set forth in the relevant authority’s organic regulations will be applicable, notwithstanding any criminal liability that may arise thereof.

Although the Act entered into force upon its publication, its provisions will only be enforceable following the publication in the Official Gazette of the relevant regulations (reglamentos), which should be enacted within 3 months as of the Act’s publication. Accordingly, as a general rule, the Act will be enforceable against governmental authorities, 3 months as of the publication of such regulations. Notwithstanding the above, the Act will be enforceable against public services chiefs and regional directors, intendants, governors, regional ministry secretaries, and chiefs of staff, 12 months as of said publication.

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**Funds Management Regulations**

On March 8, 2014, the Ministry of Finance Decree No. 129 providing a new regulation on funds management was published in the Official Gazette (the “Regulation”). The Regulation entered into force on May 1, 2014.

The Regulation replaces and renders ineffective the existing regulations of certain investment and mutual funds and its objective is to regulate several aspects of the Funds Management Act (Law No. 20,712). For these purposes, a fund is defined as the equity made up of contributions to be exclusively invested in securities and assets as authorized by the Funds Management Act and other applicable laws, and managed by a fund manager.

Among other matters, the Regulation sets forth the terms and conditions to: (i) determine the fund manager’s remuneration; (ii) update the amount of the relevant guarantee that must be provided by the fund manager to secure the fulfillment of its obligations; (iii) determine the quota value of each fund and to establish the placement price of each quota; and (iv) acquire the quality of fund contributor.

Finally, the Regulation also contains rules regarding: (i) the promise agreement to subscribe and pay funds quotas, as defined in the Funds Management Act; (ii) the assignment of funds quotas; (iii) requirements regarding the minutes of a fund’s contributors meetings which must evidence such meeting’s agreements and resolutions; (iii) the requirements regarding powers of attorney to represent a fund contributor in the foregoing fund contributors meetings; (iv) preferential rights to subscribe quotas; and (v) the tax treatment applicable to funds.

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**Tax Overhaul**

On April 1, 2014, a bill aiming to overhaul the Chilean tax system was submitted by the Chilean Government to the House of Representatives (the “Bill”). It aims to increase the State’s tax revenues by means of several amendments to existing tax regulations.

Among other matters, the Bill includes the following core amendments: (i) Chilean companies’ corporate income tax rate would increase from 20% to 25%, notwithstanding an additional 10% mandatory withholding of taxable income on account of shareholders’ final taxes, and the broadening of the applicable taxable basis; (ii) as a consequence of the hike to 25% (plus 10% of mandatory withholding of taxable income), corporate dividends paid to non-resident shareholders of Chilean companies would be *de facto* exempt from withholding tax; (iii) the existing sole capital-gains tax rate of 20% applicable to capital gains resulting from the transfer of Chilean company shares would be eliminated, thereinafter levying capital gains with final income taxes; (iv) the non-distributed tax profits ledger (fondo de utilidades tributables), by means of which withholding tax payment is suspended until the company makes a profit distribution, would be eliminated; (v) the interests on loans used to finance equity or debt investments would no longer be tax deductible; and (vi) tax-avoidance regulations would empower the Chilean Tax Authority to re-qualify transactions deemed abusive, artificial or inconsistent to the applicable subject matter.

The Bill’s amendments would be gradually implemented following its approval and entering into force. All such amendments would be fully enforceable as of January 1, 2017. Moreover, the Bill’s contents are currently being reviewed and discussed by the Chilean Senate, entity which is authorized to propose revisions and modifications to its contents.
Family Offices

Concept

Many family offices (“FO”) started their business as so called single family offices, where the family owns the FO and serves only the owner family. Instead of covering the entire operative costs, many owners of single FO’s decided to offer its services to other families as well. This concept is called multi-family office (“MFO”) or multi-client family office. Only a few MFO have founded their business independently, without a large family backing it.

In addition, the development of the MFO came as a result of the growing number of wealthy families, as well as the rapid developments in technology within the financial markets which required greater sophistication and skill in financial advisors in the 1980s and 1990s. The difficulty in attracting and retaining such talented employees became more difficult. These changes, combined with the consolidation of the financial services industry, significantly diminished the role of the private banks and bank trust departments that traditionally served the wealthy families. These trends resulted in an increased need and cost for FO services. To defray such costs many families opened their FO to non-family members, resulting in multi-family offices.

A single family office (SFO) is a private company that manages investments, IBCs, foundations and trusts for a single wealthy family. The company's financial capital is the family's own wealth, often accumulated over many family generations. Traditional family offices provide personal services such as managing household staff and making travel arrangements. Other services typically handled by the traditional FO include property management, day-to-day accounting and payroll activities, and management of legal affairs. FO often provide family management services, which includes family governance, financial and investment education, philanthropy coordination, and succession planning. A family office can cost over $1 million per year to operate, so the family's net worth usually exceeds $100 million.

The SFO itself either is, or operates just like, a corporation with a CEO, CFO, CIO, etc. and a support staff, or as a private trust company. The officers are compensated per their arrangement with the family, usually with overrides based on the profits or capital gains generated by the office. Often, family offices are built around core assets that are professionally managed. In addition, a more aggressive and well-capitalized office may be engaged in private equity placement, venture capital opportunities, and real estate development. Many family offices turn to hedge funds for alignment of interest based on risk and return assessment goals.

Multi-family offices typically provide a variety of services including tax and estate planning, risk management, objective financial counsel, trusteeship, lifestyle management, coordination of professionals, investment advice, and foundation management. Some MFO’s are also known to offer personal services such as managing household staff and making travel arrangements. Because the customized services offered by a MFO can be costly, clients of a multi-family office typically have a net worth in excess of $50 million.

A family office is normally set up as a privately owned company (or private trust company - PTC) and supports wealthy families with the organization and maintenance of their wealth. Although, a family office can be established all over the world, you find them primarily in Europe (mainly in Switzerland, Luxembourg, Liechtenstein and London), the United States...
of America and more recently in Latin America. In the past couple of years, the first SFO and MFO emerged in Hong Kong and Singapore to provide these services.

Modern Family Offices

Modern family offices are typically separated into three classes:

Class A Family Offices provide estate and financial services and typically are operated by an independent company that receives direct oversight from a family trustee or administrator.

Class B Family Offices focus on providing financial services and are typically operated by a bank, law firm, or accountant firm.

Class C Family Offices focus on providing estate services and are typically operated by the family with the assistance of a small support staff.

Structure of the Family Office

An SFO and MFO usually operate as a corporation or private trust company, but it can manage a large number of IBCs, foundations and trusts depending on the family business.

Offshore IBCs

A company used or described as an offshore company is normally an International Business Company established in a jurisdiction like Panama, the British Virgin Islands, Seychelles, Belize, etc. These jurisdictions are often described as tax havens or offshore jurisdictions. A family office can assist with acquiring or managing an offshore company.

The main characteristic of an International Business Company is that income generated or kept outside the jurisdiction is not taxed in that specific jurisdiction. As a result of this, an offshore company is often used by a family office as the top holding for an international corporate structure when this is also tax beneficial from the perspective of the country of residency of the ultimate shareholder. That way the family can distribute profits generated by the active family business/es to a tax-exempt environment. In the offshore company the profits will accumulate until they are (partly) distributed to the family. This final distribution often triggers taxation in the country of residency of the family. It is due to this reason that a family office often advises that offshore companies are held by a family trust or foundation. Next to operational business being owned by an offshore company, also private airplanes, yachts and real estate are often owned via a structure including an offshore company.

Also, privacy reasons can play a role to set up an offshore company. There are numerous jurisdictions in the world in which it is better that the ownership of a successful company is not known to the public as this could jeopardize the safety of the family (i.e. risks of kidnapping, extortion, political pressure, etc.). As most offshore companies are (still) not registered in a public register (i.e., chamber of commerce) they can be used as a layer of privacy between the active companies of the family and the ultimate owners.

A good family office offers quite a few services related to offshore companies. It can support your family with tax advice with respect to a solid international holding structure. And the family office can often also organize and/or coordinate the establishment of an offshore company and act as board member or nominee shareholder of the company.

Double tax treaty shopping is imperative as most family offices have investments in various countries applying different tax treatments.

Family Foundation or Private Foundation

Family foundations or private foundations can hold a wide range of assets. A foundation is a good instrument for asset protection and foundations are quite often used as an
alternative for a last will or testament. Foundations are also used for charitable purposes.

Foundations can be used for similar purposes as trusts but where originally only set up in civil law countries. Nowadays also some common law countries offer the possibility to establish a foundation (i.e., Panama). Contrary to a trust, a foundation is a legal entity. A family foundation or private foundation can hold all kind of assets and is a good instrument for asset protection and can act as an alternative for a last will or testament.

Foundations fully own the assets contributed to them and are managed by a foundation board or council. The founder of the foundation (the person establishing the foundation) normally establishes the foundation for a particular purpose. The organs of the foundation are strictly bound to this purpose. The founder decides who the beneficiaries of the Foundation are and to which benefits the beneficiaries are entitled. All the intentions of the founder are written down in the bye-laws of the foundation. The foundation board is entitled to distribute assets to the beneficiaries of the Foundation, based on the bye-laws of the Foundation. The founder can also appoint an advisor or guardian in order to control the foundation board.

Often only investable assets are brought into the structure, with the goal to safeguard these assets for the next generation. The foundation can deal with concerns about specific family members and provides secured resources for spouses and children.

Family Office Services

Two of the most important services offered by a family office are asset management and (consolidated) reporting. A basic family office will only offer asset management to you. Such a family office is actually more an independent asset manager. A real family office will also offer other services. Other categories of services are i.e. wealth- and tax planning, trustee- and corporate services, support with real estate and family governance. There are also family offices which support you less on the financial side but more on the personal side, acting for example as private secretary and making travel arrangements.

The New Switzerland

An over-used comparison? Perhaps. Multiple countries all over the world have been deemed as the next safe haven for wealthy estates, yet is has never been closer to reality as it is now.

Panama shines a bright light at the end of the tunnel. Already considered by many as the fulcrum of finance and the next family office playground in the upcoming future, here are a few of the reasons that make it the ideal substitute to a 400-year-old feudal banking system:

- Geographically, no other country in the world can boast the strategic position held by this country of close to 4 million inhabitants. It lies between North and South America, making it the perfect stop for financial endeavors along with a complimentary visit to the New York Times’ 2012 #1 tourism destination in the world.

- With an economy that grew more than 10% last year, a democratic political system admired by every country in the region, and a rating as investment grade by Standard & Poors and Moody’s, continued stability is a guarantee.

- The legal framework in Panama sits in the top echelons of offshore structuring. International Business Company legislation was crafted to satisfy from the simplest to the most complex transactions.

- Foundations and trusts are both accepted due to the country’s hybrid background. Foundations are highly recommended and heavily enforced as wealth management mechanisms. Clauses in the law are specifically directed towards asset
preservation (i.e. forced heirship claims and third party attacks).
- Panama’s financial center has been built to meet the needs of a landmass that stretches from North to South Pole, yet in recent years, changes in international laws and expat inflow have seen it modeled towards those which Hong Kong, Dubai and Singapore so proudly boast.

The latest arrivals to Panama’s financial center are Banca della Svizzera Italiana (BSI) and Julius Baer together with several Swiss asset management firms.

Yet it is for this and many other reasons, that Panama has been able to maintain such a low profile while other business centers strive for the skies, attracting much attention.

Smart family offices looking to cement the main pillars of wealth preservation and succession will not place management in places calling for attention but instead, will look for destinations, such as Panama, holding every element necessary to ensure such objectives while maintaining a profile worth of the New Switzerland.

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**Venezuela**

**Foreign Exchange Controls**

**Regulations to SICAD II Market**

Establishing partial regulations to the Alternative Foreign Exchange System (Sistema Cambiario Alternativo de Divisas or SICAD II) there was promulgated Exchange Agreement No. 27 (Official Gazette No. 40.368 of March 10). These regulations establish that any persons or entities domiciled in the country can buy and sell foreign exchange through the SICAD II market, which is administered by the Central Bank. Likewise, anyone whether domiciled in the country or not can sell foreign exchange or foreign currency denominated instruments on this market for local currency. In addition, these regulations establish that exporters of goods and services may retain for their own purposes up to 60% of their export proceeds, being required to only sell the remaining 40% on the SICAD II market.

The significance of the SICAD II market is that this opens a quasi-free foreign exchange market with a much more realistic, official exchange rate. Accordingly, Venezuela presently has four exchange rates, which are the so-called CENCOEX (which has now substituted the previous exchange control entity of CADIVI) rate of Bs.6.30=US$1 (available for foods and medicines), the SICAD I rate of approximately Bs.11=US$1 (available for productive inputs as allotted by the government), the SICAD II rate of approximately Bs.50=US$1 (available to whoever can get dollars at this rate; it may be noted that the offer is supposedly around US$40 million per day, which is far less than the demand), and the black market rate, which as of mid-May is around Bs.74=US$1 (it may be noted that it is no longer illegal to mention this market or rate).

**Tourists and SICAD II**

By an Official Notice (Aviso Oficial) of the Central Bank (published in the Official Gazette No. 40.378 of March 24, 2014) it was established that tourists entering and leaving the country (that is non-residents) are able to change foreign currency at the SICAD II rate (however, tourists leaving the country can only change back into hard currency up to 25% of what they changed into bolivars). This tends to correct the tremendous distortion between the black or free market rate and the old official rate of Bs.6.30=US$1, which previously applied to tourists changing currency at the points of entry or using a non-Venezuelan credit card, and which at that rate had made Venezuela one of the most expensive countries in the world.

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PRICE/PROFIT MARGIN CONTROLS

Obligation to register

Further to the Law of Just Prices (Decreto con Rango, Valor y Fuerza de Ley Orgánica de Precios Justos, Official Gazette No. 40.340 of January 23, 2014), which among many other aspects establishes a maximum profit margin for all economic actors of 30% (although this may also be set at lower amounts by region, specific industries or activities, etc.), the Superintendency of Just Prices (officially the Superintendencia Nacional para la Defensa de los Derechos Socio Económicos, which has the acronym of SUNDDE) has opened the obligatory registry for all entities and persons engaging in economic activities in Venezuela (officially this is the Registro Único de Personas que Desarrollan Actividades Económicas, or RUPDAE).

The registry was opened as of March 31 and those subject to the law (which are at least all entities producing goods and services; there are some implied exceptions, but which have yet to be defined) have 180 days in which to complete the registration. According to the Law of Just Prices this registration is to be the equivalent of a license to carry on the activity, as any non-registered activity would be deemed to be unlawful and subject to closure or confiscation. (See http://www.superintendenciadepreciosjustos.gob.ve)

Announcement of controlled prices

The SUNDDE is the new super agency for fighting what the government has termed an “economic war” against the enemies of the revolution. Accordingly, it has replaced all of the other agencies that dealt with price controls generally. Moreover, notwithstanding the fact that the thrust of SUNDDE is presumably to control the profit margins of economic actors and in this manner the prices of goods and services offered to the public, nevertheless SUNDDE is also directly setting maximum sales prices for a growing number of goods. Given that Venezuela is suffering from such a high inflation (officially 57% for the 12 months through March), as well as chronic shortages of many goods, it is anticipated that controlled prices will have to be dynamic. In part for this reason, as well as not to advertise price increases more than necessary, SUNDDE has established that it will only notify authorized prices via its web page (http://www.superintendenciadepreciosjustos.gob.ve), which are to be effective as of the date of publication.

Commercial promotions

SUNDDE is also responsible for regulating commercial promotions carried out by companies selling goods and services. Accordingly, it has promulgated new regulations and procedures regarding their authorization and limitations (SUNDDE Providencia Administrativa No. 004/2014, Official Gazette No. 40.397 of April 23, 2014).

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SALARY INCREASE

Following on top of the 10% decreed increase in the minimum wage last January, the government has decreed a further increase of 30% in the minimum wage as of May 1 (Decree No. 935, Official Gazette No. 40.401 of April 29, 2014). Additionally, the government has implied that a further wage increase may be imposed later in the year.

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Forced Sale Of Rental Property

As an indication that the present Venezuelan regime remains as, or even more, radical as the Chavez regime (although there are some cracks beginning to appear in the economic policies of the government), the Ministry of Housing and Habitat promulgated a regulation (Official Gazette No. 40.382 of March 28, 2014) obligating owners and lessors of apartment buildings of any type to offer to sell the individual apartments or rooms to the lessees thereof within 60 days of the publication of these regulations when the buildings have been rented for housing for over 20 years. If they do not do so the ministry can impose significant fines and eventually confiscate the property.

Not only, however, must the apartments or rooms be offered for sale to the current tenants, based on the norms of housing rentals, administered by the National Superintendency of Housing Rentals, the prices are to be established by the government in accordance with the regulations on “just values”.

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