

August 19, 2021

Monitoring System of Public Officials' Private Activities

Through Resolution No. 15/2021, the Anticorruption Office has entrusted the Transparency Policy Planning Office with the design of a System to Monitor the Private Activities of Public Officials Prior and Subsequent to the Exercise of their Public Function. The monitoring system, which will enable citizen control and active transparency mechanisms, will record the background, connections and private interests of persons who assume senior positions in the Argentine Government, and the activities they perform upon terminating their public mandate, in order to compare and verify compliance with public office employment rules and regulations before and after their tenure.

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On July 27th, Resolution No. 15/2021 of the Anticorruption Office came into force, whereby the Transparency Policy Planning Office was entrusted with the design of a System to Monitor Private Activities of Public Officials Prior and Subsequent to the Exercise of their Public Function. This system will record the background, connections and private interests of the persons who assume senior positions in the Argentine Government -up to three (3) years before assuming the position-, as well as the activities carried out by them upon termination of their public mandate -up to one (1) year after their tenure-, for the comparison and verification of compliance with public office employment rules and regulations, enabling citizen control and active transparency mechanisms.

Indeed, and as provided in the Recitals of the Resolution, Section 12 of Law No. 25,188 on Ethics for Government Officials requires those officials whose mandate is not a direct result of public elections, to declare their employment background in order to allow a better control over possible conflicts of interest that may arise. In the same vein, Section 15 subsection b) of Law No. 25,188 on Ethics for Government Officials states that those who perform public functions must refrain from intervening, during their tenure, in matters particularly related to persons or matters to which they have been associated with during the prior three (3) years or in which they have equity interests. Lastly, Section 46 of the Code of Ethics for Public Officials, enacted by Decree No. 41 on January 27, 1999, sets forth a one (1) year period applicable to public officials leaving their office, during which they must not carry out or sponsor administrative procedures or formalities in favor of third parties, whether or not they are directly in charge of them, nor enter into contracts with the Argentine Government which are related to the activity they have performed during their tenure.

The Monitoring System, entrusted by the Anticorruption Office, is intended to record and preserve background information that would allow to verify the full compliance with the aforementioned rules and prevent public decisions that may harm the public interest for the benefit of specific private interests

through the sharing of privileged information or lack of impartiality and independent criteria, among other conducts contrary to public ethics. The Resolution emphasizes the aggravated risks that exist when persons who hold executive positions in companies or private entities regulated or controlled by certain public agencies, are appointed to perform functions in such agencies. The same occurs when those who have exercised public functions enter or return to occupy senior positions in the private sector, especially when they are high-ranking officials of the Argentine Executive Branch.

Together with the creation of the Monitoring System, the Transparency Policy Planning Office was also entrusted with laying out measures and coordinating the different public and private entities which are necessary to allow the design, development, evaluation, and collaborative planning of the System to Monitor Private Activities Prior and Subsequent to the Exercise of Public Officials in order for it to achieve its full potential.

Mitrani, Caballero & Ruiz Moreno has extensive experience in the implementation of compliance programmes for local and multinational companies as well as in the drafting of corporate policies, personnel training, monitoring and control activities and has a team of professionals specially dedicated to issues related to compliance of normative and anti-corruption policies. The firm's compliance and corporate crime practice is dedicated to developing measures and procedures to prevent, detect and combat fraud, ethical misconduct, and other violations of laws and regulations governing corporate activity.

Our professionals also provide compliance due diligence and assist clients in internal and external corporate investigations in different business sectors. The firm has conducted or participated in multiple independent investigations involving insider trading, corporate and tax fraud, money laundering, antitrust, public corruption and government contracting issues. The firm also assists clients in assessing and handling self-reporting issues, navigating through administrative, civil and criminal investigations or proceedings before public bodies, and developing and implementing anti-corruption policies, compliance plans and training programmes.

If you have any questions or concerns, please do not hesitate to contact us.