



# INSOL INTERNATIONAL

## Latin America Newsletter

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### EDITOR'S NOTE



**Liv Machado**  
*Fellow, INSOL International*  
**TozziniFreire**  
**Brazil**

Welcome to the second edition of INSOL's Latin America Newsletter. I have had the honor to act as the editor of this edition, prepared during these challenging times due to the impact of the pandemic caused by Covid-19 in Latin America.

As an effect of the crisis caused by corona virus, a worldwide wave of filings of insolvency proceedings has already begun and more cases are expected. Restructuring proceedings will be key tools to help companies to recover from the financial and economic crisis, and to negotiate with its creditors. Regarding such scenarios, it has become even more important to understand and deepen our knowledge of insolvency regimes in different jurisdictions.

Our authors have drafted very interesting articles on Mexican insolvency law, considerations on the evolution of insolvency regulations in Peru and on the regulation of insolvency in Chile. In addition, especially considering that Brazil recently became the epicenter of the pandemic in the world, we have included notes on the judicial reorganization of publicly traded companies and on the impacts of the pandemic in Brazilian insolvency proceedings.

We would like to thank all the authors that participated in this edition. We also invite our colleagues to send us new ideas and join us in our next editions.

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If you would like to send an article for inclusion in the Latin America Newsletter, please contact our Seminar Manager, [Susannah Thomson](#).

If you would like to introduce a new member to INSOL International please contact our Database Manager, [Tony Ashton](#).

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## HIGHLIGHT ARTICLE

### Impacts of COVID-19 in Brazilian Insolvency Proceedings

*Liv Machado, Diana Barros, Nubia Lopes Bufarah - Tozzini Freire Advogados, Brazil*

The first case of coronavirus was confirmed in Brazil on February 26, 2020, and since this date the numbers have increased drastically, which lead to the adoption by Brazilian Federal Government, States and Municipalities, of measures to mitigate the spread of the virus, such as social isolation quarantine, lockdown and temporary restrictions to activities and circulations in roads, ports, airports, among others.

Initially, on March 20, Brazilian Federal Government enacted the Decree No. 10,282 to regulate Law No. 13,979/2020, as amended by the Provisory Act No. 926/20; the latter provided for “measures that can be adopted to fight the public health urgency of international relevance deriving from coronavirus” (COVID-19), such as (i) isolation; (ii) quarantine; (iii) temporary restrictions to activities and circulation in roads, ports and airports, among others.

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## BRAZIL

### Judicial Restructure in Publicly Traded Companies

*Antonio Mazzucco, Vitor Ferrari & André Jerusalmy, Mazzucco & Mello Advogados, Brazil*

The purpose of judicial recovery, also known as Chapter 11, is, strictly speaking, to economically recover the debtor, ensuring it the indispensable means to maintain the company, in the strict objective of preserving its social function of value generation and economic movement. The Company and the corporate activities are considered as true social institutions for which several interests are combined: the shareholders' profit (business owner or company); the workers' salaries (of a manifest maintenance nature); the suppliers' credits; and the payment of taxes to the Public Administration.

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If you are interested in **Substantive Consolidation in Brazilian Court reorganisations**, you can [find out more here](#).

## CHILE

### The regulation of Insolvency in Chilean Legislation

*Pablo Del Campo B., Rodrigo Novoa U., José María Lagos Z. – SIV Abogados, Chile*

In January of 2014 Chile adopted a substantial amendment on insolvency, when Law NO. 20.720 came into force, which replaced the current insolvency regime known as “Ley de Quiebras” (Bankruptcy Law), into a Law of Reorganization and Settlement of Companies and Persons. This new law, broadly speaking, focused on replacing the old concept of bankruptcy with that of insolvency, trying to modify the existing image at the time concerning that the bankruptcy was equal to failure and discredit on the entrepreneur's image. What the legislator sought was to emphasize the importance of saving companies, rather than seeking their Settlement, focusing particularly on the figure of the debtor in order to persevere in their reorganization and re-entrepreneurship in the face of adverse financial situations. As part of that amendment, were introduced the reorganization procedure in charge of a designated supervisor (hereinafter the Veedor), the Settlement procedure in charge of the liquidator, and a procedure of special application to persons of renegotiation.

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## MEXICO

### Considerations on Mexican Insolvency Law

*Zulima González and Patricia Cervantes, SOLCARGO Abogados, Peru*

With the adoption of the UNCITRAL Model Law on Cross-Border Insolvency in 1997, which sought to assist States in developing a modern legislative framework for resolution of cross-border insolvency cases, Mexico was forced to abrogate its existing insolvency law (Bankruptcy and Suspension of Payments Law) and enact a new Bankruptcy Law, which responded to international standards.

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## PERU

### Evolution of Insolvency Regulations in Peru

*Luis Fernando Martinot Oliart, Martinot Abogados, Peru*

Peru, as many countries in the region, has a long-standing history of economic crisis. Whether caused by external factors or as a consequence of internal mishaps, generations of Peruvians were born, grew and worked in a perpetual crisis environment which seemed to never end.

### Insolvency Measures to Face COVID-19 Crisis in Peru

*Anthony Lizárraga Vera-Portocarrero, Estudio Muñiz, Peru*

The insolvency system in Peru is regulated by Law No. 27809, the Insolvency Act (known as LGSC by its Spanish initials) and is a sui generis system. Unlike in some other countries, the body responsible for processing, managing

Things changed in the 90's when the country opened up its markets to foreign investment and adopted a more liberal approach on its economic policy. All in all, 30 years of economic and political stability and continued growth have turned Peru into one of the Go-to destinations in Latin America. Despite the several challenges such as the fight against poverty, corruption and the lack of infrastructure, Peru has been perceived as a stable emerging market where growth, profits and opportunities were still available as opposed to some of the neighboring countries.

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and overseeing insolvency proceedings is an administrative body rather than a court. In Peru, the authority responsible for conducting insolvency proceedings of debtors domiciled in the country is the National Institute for the Defense of Competition and Intellectual Property (known as INDECOPI by its initials in Spanish).

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## FORWARD PROGRAMME

As global travel is still limited, INSOL is running a series of webinars to keep our members connected.

We will be planning a virtual Latin America event in March 2021. Watch this space!

SEP  
17  
2020

INSOL Virtual 2020

# As a wave of restructuring approaches – are you ready?

On **September 17 2020**, INSOL International will be holding its first virtual conference – bringing together a mix of relevant topics and exceptional speakers. Join us for essential learning, discussion, peer-to-peer knowledge exchange, and to experience the development of best practice in relation to the evolving global situation post Covid-19.

We anticipate a global audience of restructuring professionals to participate, accessing highly-topical content and accredited remote-learning.





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**A GLANCE AT THE LAST FIVE YEARS**

**A GLANCE AT THE LAST FIVE YEARS**

**Global Network**





Our Latin America seminars attract lawyers, insolvency practitioners and financial advisors from countries around the region each year, offering a unique opportunity to enhance and expand your network of international connections and build new relations. The Latin America series has been running since 2008. Over the last five years we have brought together:

- 425 participants
- 84 speakers
- 16 sponsors
- delegates from 21 countries including 9 in Latin America
- representatives from 21 of our G36 firms

Thank you to the Latin America Committee and all of our supporters in the region, and globally, who help contribute to this network.



### Technical Library

Our members have had access to a wealth of comprehensive reports and publications, as well as exclusive access to the quarterly members' journal INSOL World.

### Member Involvement

Members have spoken in conferences and seminars worldwide; joined technical committees; and written papers to share with the INSOL Community.



### Latin America Newsletter Committee

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Asociación Uruguaya de Asesores en Insolvencia y Reestructuraciones Empresariales	Hong Kong Institute of Certified Public Accountants (Restructuring and Insolvency Faculty)	National Association of Federal Equity Receivers
Associação Portuguesa de Direito da Insolvência e Recuperação	INSOL Europe	NIVD – Neue Insolvenzverwaltervereinigung Deutschlands e.V.
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Australian Restructuring, Insolvency and Turnaround Association	Insolvency Practitioners Association of Singapore	REFOR-CGE, Register of Insolvency Practitioners within "Consejo General de Economistas, CGE"
Bankruptcy Law and Restructuring Research Centre, China University of Politics and Law	Instituto Brasileiro de Estudos de Recuperação de Empresas	Restructuring and Insolvency Specialists Association (Bahamas)
Business Recovery and Insolvency Practitioners Association of Nigeria	Instituto Iberoamericano de Derecho Concursal	Restructuring and Insolvency Specialists Association of Bermuda
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Business Recovery Professionals (Mauritius) Ltd	International Association of Insurance Receivers	South African Restructuring and Insolvency Practitioners Association
Canadian Association of Insolvency and Restructuring Professionals	International Women's Insolvency and Restructuring Confederation	Turnaround Management Association (INSOL Special Interest Group)
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	Korean Restructuring and Insolvency	



(Bankruptcy and Insolvency Section)

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Section)

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