

February 10, 2021

Colombia's Superintendence of Companies Expands New Criteria for Compliance Programs: Deadline to Comply by April 30, 2021

This Alert is also available in [Spanish](#).

In recent years, the Colombian government has demonstrated a strong commitment to rectifying the culture of impunity that had been seen as a way of doing business in the country. In line with efforts to advance the country's fight against corruption, on October 2, 2020, the Colombian Superintendence of Companies issued Resolution 100-006261 of 2020, which expands the criteria for requiring companies to adopt business transparency and ethics programs ("BTEP" in English, or "PTEE" in Spanish).¹

Attorneys

[María González Calvet](#)
[Jonathan R. Ference-Burke](#)
[Nicole D. Horowitz](#)
[Nathalia Sosa](#)

Under Resolution 100-006261 of 2020, effective January 1, 2021, companies that are supervised by the Superintendence of Companies, carry out international business or transactions² in the preceding year, and meet other criteria³ are required to implement a BTEP by April 30, 2021.⁴ Resolution 100-006261 of 2020 repeals Resolution No. 100-002657 of 2016, which had subjected only Colombian companies operating in certain sectors, including pharmaceutical and infrastructure and construction, to a BTEP requirement. In practice, this means that most companies with any sort of international profile will now be required to comply with Resolution 100-006261 of 2020. The resolution also provides that the Superintendence of Companies may, at any time, verify the status of compliance with this obligation. While the resolution is not explicit on penalties, noncompliance may lead to administrative investigations, fines, or related enforcement.

The Superintendence of Companies last issued guidance on the development of BTEPs on July 26, 2016 via External Circular No. 100-0000003.⁵ While it is unclear whether the Superintendence of Companies plans to issue updated guidance in light of the new resolution, companies operating in Colombia should be familiar with the requirements of External Circular No. 100-0000003. These requirements include, among others, a BTEP program that provides guidance on interactions with third parties, due diligence and audit procedures, and practices for document retention.⁶ Moreover, the COVID-19 pandemic has presented unique and heightened corruption risks resulting from elevated economic pressures and an increased reliance by government on the private sector in order to tackle the public health crisis. Companies must therefore focus on developing robust compliance programs aimed at detecting and addressing risks while navigating the unprecedented challenges presented by the pandemic.

By expanding the criteria for requiring companies to implement a BTEP, the Colombian government is harmonizing anti-corruption standards across industries and recognizing that corporate transparency is a significant key to shedding the country's previous reputation for widespread corruption. Indeed, obligating a broader range of companies to implement corporate compliance programs may signal a heightened interest in bribery enforcement, particularly as Colombian regulators look to assess the impact of reduced controls and decreased oversight brought forth by the COVID-19 pandemic.

To learn more about this topic and stay on top of ever-evolving corruption risks and enforcement environments worldwide, [sign up](#) for our distribution list to receive alerts, thought leadership, and event invitations. If you have any questions regarding Ropes & Gray's [Enforcement Express](#), please contact Express@ropesgray.com.

1. Superintendencia de Sociedades Resolution 100-006261 (2020), *available at* https://www.supersociedades.gov.co/nuestra_entidad/normatividad/normatividad_resoluciones/Resoluci%C3%B3n_100-006261_de_2_de_octubre_de_2020.PDF.
2. International business or transactions include transactions of any nature, directly or through an intermediary, a contractor, a subsidiary or a branch, with foreign natural or legal persons of public or private law. *Id.* at Art. 1.
3. Resolution 100-006261 of 2020 applies to companies who have conducted international business or transactions equal to or higher (individually or jointly) than 100 current legal monthly minimum wages and having an earned income or total assets equal to or greater than 40,000 current legal monthly minimum wages within the preceding calendar year. *Id.* at Art. 1.
4. Going forward, companies that meet the criteria for the first time in a given year will have until April 30 of the following year to adopt a BTEP.
5. Superintendencia de Sociedades External Circular No. 100-0000003 (July 26, 2016), *available at* https://www.supersociedades.gov.co/nuestra_entidad/normatividad/normatividad_circulares/Circular%20Externa%20100-000003%2026-07-16.pdf.
6. *Id.*