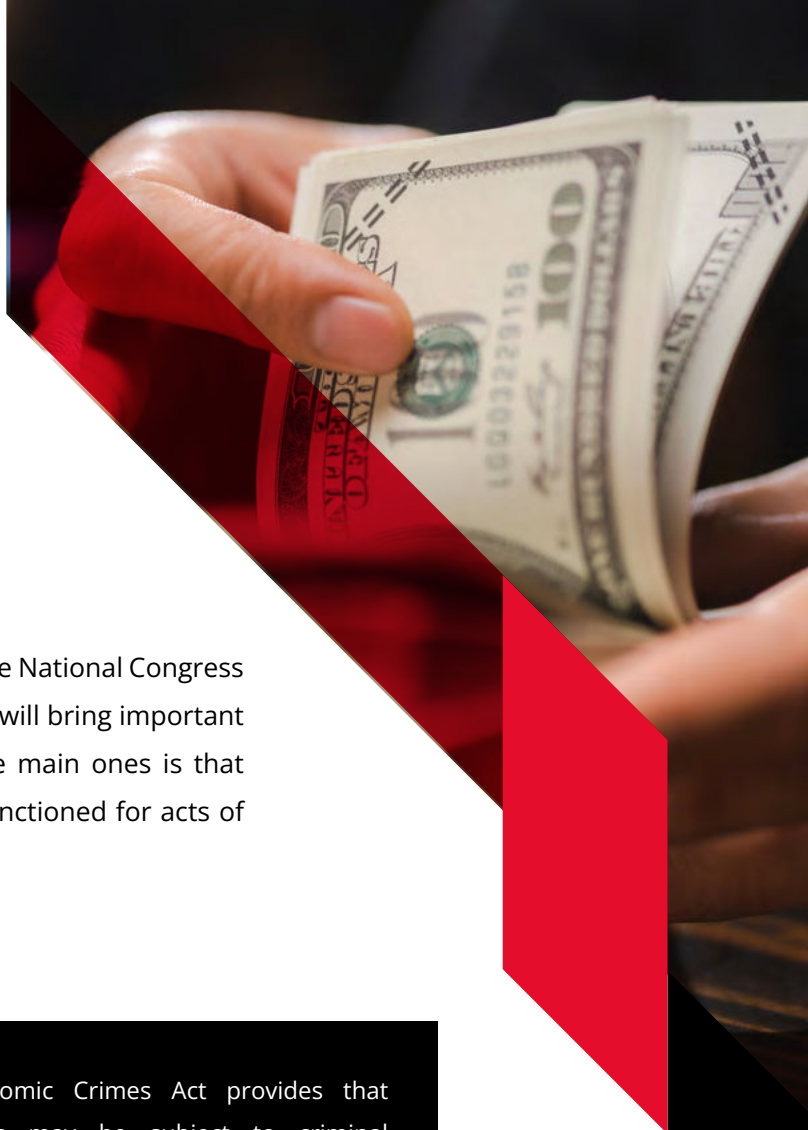




# **NEW ECONOMIC CRIMES ACT**



## ECONOMIC CRIMES ACT

The recent enactment of the new Economic Crimes Act in the National Congress (which will modify Law 20,393 and is about to be enacted), will bring important changes in the field of corporate governance. One of the main ones is that companies will be able to be prosecuted and criminally sanctioned for acts of third parties outside the organizations.

The new legislation expands the catalog of criminal offenses to more than two hundred, which requires a specialized approach and a deep understanding of the legal implications. At Alessandri we understand the challenges this implies for companies and we want to guide them in this new scenario. Our experience and knowledge in regulatory compliance positions us as the strategic partner to advise companies on compliance with the law and crime prevention.

The Economic Crimes Act provides that companies may be subject to criminal conviction, provided that the following copulative conditions are met.

- That the crime has been committed by a person within the company or third parties rendering services, with or without representation, for the company.
- That the perpetration of the crime has been favored by the lack of effective implementation of an adequate prevention model.

# NEW CATEGORY OF ECONOMIC CRIMES

- Those that under any circumstances are considered as economic crimes (for example: collusion, stock exchange-related crimes, corruption between individuals, false balance sheets).
- Those committed in the exercise of a position/function within the company or for economic benefit (e.g. fraud, computer crimes, falsification of public instruments, against intellectual and industrial property).
- Those committed by public officials in which someone within the company has intervened or when it brings some benefit (e.g. bribery, tax fraud, disclosure of secrets).
- In general, any crime of receiving and asset laundering.

## CRIME PREVENTION MODEL: RELEVANT CHANGES

The change of the requirements for attributing criminal liability to legal entities, together with the increase in the types of criminal offenses for which they can be prosecuted and the expansion of the number of individuals who can cause their companies to be criminally liable, **will force companies to periodically review and update their crime prevention models, in accordance with the new law that establishes these obligations.**

The law expressly establishes the elements for a model to be considered as such, taking into special consideration the line of business, size and resources of the company.

- The criminal liability of the legal entity is triggered when the perpetration of the act is favored or facilitated by a lack of implementation of the crime prevention model.
- An effectively implemented crime prevention model exempts from criminal liability

- New requirements are established for crime prevention models; identification of risky activities, establishment of protocols and procedures
- Independent third party certification companies and improvement mechanisms are eliminated, but the constant training and updating of the models remain in effect.

In addition to the actions taken in the preparation and implementation of the crime prevention models, the duty to periodically review both the internal protocols and the mechanisms for their improvement is established.



# EXPERT TEAM

At Alessandri, we are committed to our clients' success and peace of mind. Our goal is to provide them with the necessary tools to meet the challenges of the new law and help them maintain a solid business reputation.



**Santiago Ortúzar D.**

Partner

- Director of the Department of Economic Law U. de Los Andes.



**Macarena Gatica**

Partner

- Data Protection and Cybersecurity area



**Felipe Cousiño**

Partner

- Capital Markets and Antitrust area



**Luis Fuentes**

Senior Associate

- Litigation and Arbitration/ Compliance area



**Felipe Von Unger**

Associate

- Compliance area



**Francisco Espinoza**

Director Labor area





**ALESSANDRI** 13<sup>YEARS</sup>  
ATTORNEYS AT LAW 1893

**El Regidor 66, 10th floor**  
Las Condes – Chile

Telephone: (562) 2787 60 00

E-mail: [contacto@alexandri.cl](mailto:contacto@alexandri.cl)  
[www.alexandri.legal](http://www.alexandri.legal)