

SMI Markets: Ecuador

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CMIRR Markets: Ecuador

## New Capital Markets Law

The National Assembly of Ecuador published on 20 May 2014 with immediate effect, the new law for strengthening and optimising the corporate and securities sectors in Ecuador. The law had been approved by the legislative body on 13 March 2014. The new regulation amends nine different laws and introduces several changes to the regulations related to the Securities Market.

The main changes include:

### **Creation of the Board for the Regulation of the Securities Market (Junta de Regulacion del Mercado de Valores – JRMV)**

The JRMV replaces the National Securities Council (CNV) and will define the policies for the securities market and issue the norms to regulate and supervise it. The board will be made up by three members:

- One representative from the ministers related to the Economic policy;
- The responsible for the Production policy in Ecuador; and
- A representative of the President of the Republic.

Chairmen from the three regulating bodies on corporate, securities, banking and insurance, cooperative and micro financing sectors will be part of the JRMV with no right to vote.

The JRMV was expected to be integrated 30 days after the publication of the law. During the transition process, JRMV will have 180 days to ratify all the measures issued by the CNV.

### **Creation of a single exchange trading system (SIUB)**

The SIUB will be provided by separate company and must be implemented by all private exchanges in the country. If created, the public stock exchange cannot be shareholder of the company managing and operating the SIUB.

### **Demutualisation of the private exchanges**

Quito and Guayaquil Exchanges will be demutualised and become open joint stock companies, allowed to generate profits. Within the new capital structure, a shareholder cannot exceed a 5% stake in the new capital structure of the exchanges. Only other exchanges and regulated markets can exceed such limit but their stake cannot be greater than 30%.

The law also opens the possibility for the creation of a government-owned stock exchange, in case the private exchanges do not fulfil the provisions stipulated in the law on the Securities Market. The state-owned stock exchange would have administrative autonomy but will report to the Ministry of Finance. The JRMV will establish the mechanism to interconnect the public stock exchange's trading system with it.

### **Dematerialisation of Securities**

- Equities listed in the Securities Market Registry must be dematerialised no later than 180 days after the publication of the law.
- Physical fixed income securities will have the option to be dematerialised or circulate in physical form until their final redemption.
- All new securities must be issued on book-entry form only from 20 May 2016.

### **Taxation**

A Capital Gains Tax rate of 0% will be applied to:

- Payments distributed by investment funds, mercantile investment trusts and complementary funds investing in equities through authorised Ecuadorian stock exchanges;
- Capital gains on investments in equities through authorised Ecuadorian stock exchanges.

The exemptions do not apply to investors domiciled in tax havens.

Also, the law exempts from VAT the fees charged on services defined by the tax authority (Servicio de Rentas Internas) and provided by exchanges, CSDs, brokerage houses and funds and trusts management companies.

### **CSDs**

The new law expands to other government institutions rather than the Central Bank the scope of companies authorised to provide CSD related services. Also, the minimum capital requirement for private companies is now to be set by the JRMV.

Other activities incorporated to CSD scope will include:

- Dematerialisation of securities by book-entry form registration;
- Opening accounts with other local or international depositories;
- Provide paying agent services to local securities;
- Numbering agency.

The new regulation also introduces into the Securities Market law:

- The principles for the issuance, record-keeping and registration of liens and collateral on book-entry form securities, giving to CSD records all the weight to recognise the legal ownership;
- The formal concept of clearing and settlement and the CSD responsibilities. These activities can only be performed by CSDs. Also, private CSDs will be allowed to provide such services for government issued securities in the absence of a public CSD.

### CCPs

The new regulation provides for the creation of a central counter party (CCP) for cash and derivatives instruments. The new institution must be created according to the regulation to be issued by the JRMV.

Finally, the new law establishes the requirements for the creation and functioning of brokerage houses, risk rating companies, stock exchanges, the company providing and administrating the SIUB, depositories clearing and settling securities, investment fund management companies and the services provided by them.

A copy of the law and a comparison with the previous regulation are available here (in Spanish): [New law for strengthening and optimising the corporate and securities sectors in Ecuador](#); [Comparison of amendments introduced by the new law](#).

## Market Information Impact

### Ecuador

This information affects the data contained in the Stock Market, Local Market Administrative Organisations, Settlement, Safekeeping/Post Settlement, Dividends/Income, Taxation, Market Charges and Registration sections of the Securities Market Information Service.

## Infrastructure Risk Ratings Impact

### Ecuador

Market Rating: B

Market Flash Impact: Positive

Impacted Risk Type: Liquidity Risk

Current Rating = B

Flash Impact = Positive

Impacted Risk Type: Counterparty Risk

Current Rating = CCC

Flash Impact = Positive

The new law is expected to have a significant impact on the securities market. The provision on dematerialisation of securities should reduce the number of physical securities and the risks associated with the theft, fraud and loss. Also, the provisions on the CCP services have opened up the way for the creation of a central counterparty to reduce risks in the market. And in general, it enhances the legal framework for the operations of the CSDs.

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