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FLASH LEGAL # 001208

COMPREHENSIVE REGULATIONS FOR THE EXERCISE OF THE FUNCTIONS OF JUDICIAL CUSTODIANS

Dear Clients and Friends:

Please be advised that, by Resolution No. 193-2026 of the Plenary of the Judiciary Council, published in Official Register No. 378 on September 28, 2026, the *Comprehensive Regulations for the Exercise of the Functions of Judicial Custodians* were issued.

The implementation of these regulations has given rise to significant operational difficulties, directly affecting judicial proceedings in the enforcement stage, particularly those requiring the execution of attachment and sequestration measures against assets.

Cause of the Situation

The new regulations establish that judicial custodians must post a security in order to perform their functions, in accordance with Article 312 of the Organic Code of the Judiciary. The Comprehensive Regulations for the Exercise of the Functions of Judicial Custodians set forth the procedure for determining and posting such bond:

1. Provisional security: The presiding judge must set a provisional security, taking into account the amount in dispute in the proceedings.

2. Determination of the definitive security: Once physical seizure of the assets has been carried out and the expert valuation report has been submitted, the judge shall determine the definitive value of the assets and order the judicial custodian to complete, update, or adjust the security.

3. Deadline for completing the security: The judicial custodian shall have a period of five (5) days to comply with the judicial order.

A material point is that the security must be posted individually for each judicial proceeding; a single security may not be used for multiple proceedings. This requirement imposes a substantial economic burden on the judicial custodian, which may, in certain cases, be impossible to satisfy, particularly in proceedings involving high values or multiple assets.

Current Issues in Judicial Proceedings

Among the principal difficulties identified are the following:

- Some judicial custodians have been reluctant to accept appointments due to the economic burden of posting a security for each individual case.

- Certain proceedings have attachment measures pending execution because judicial custodians have been unable to facilitate their intervention.

- These operational difficulties may result in delays in the seizure, custody, and administration of assets subject to judicial measures and, in some cases, may allow the assets to be dissipated.

Available Alternatives to Avoid Further Delays

We understand that certain judicial custodians are undertaking efforts to propose alternatives to this regulatory requirement, taking into account the economic and operational difficulties involved in posting an independent security for each judicial proceeding.

While these efforts are ongoing, it is possible for the creditor to assume the cost of the required security in order to enable the judicial custodian to take possession of the appointment, allow the attachment or sequestration measure to be executed, and, consequently, permit the judicial auction process to proceed.

We hope that you find this general information helpful. Please note that it is not intended to constitute legal advice. Should you have any specific inquiries, we would be pleased to provide further assistance

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