

July, 2017

FINANCIAL ANALYSIS UNIT ISSUES A NEW MANDATORY GENERAL INSTRUCTION AS TO ULTIMATE BENEFICIARY AND MANDATORY KNOW YOUR CUSTOMERS' DUE DILIGENCE

On June 12, 2017, the Chilean Financial Analysis Unit ("UAF") issued the General Instruction No. 57 (the "General Instruction") imposing on Reporting Entities (including but not limited to banks and financial institutions, representative offices of foreign banks, private investment fund managers, brokerage firms, securities brokers, insurance companies) additional AML/CTF Know Your Customer controls ("KYC controls"). Reporting Entities now must identify, independently verify and record supporting evidence as to their clients' (legal entities) ultimate beneficial ownership.

Clients who (a) are legal entities; and (b) have a permanent relationship with the Reporting Entity; shall disclose and provide the latter with a list and supporting information about their Beneficial Owner(s) understood as any of the following two scenarios:

- 1 Any individual(s) who owns, directly or indirectly, through partnerships or other mechanisms, a stake equal to or greater than 10% of the capital or voting rights of a legal entity;
- 2 Any individual(s) who, without prejudice to directly or indirectly holding less than 10% of the capital or voting rights of a legal entity, through partnerships or other mechanisms, exercises effective decision-making faculties.

In the case of foreign legal entity clients who are permanent clients, Reporting Entities shall require the identity and domicile of individuals holding the highest managerial position abroad and its legal representatives domiciled in Chile, who shall deliver all the information about the Beneficial Owner(s) (listed in points (i) and (ii) above) within a period of no more than 45 business days.

Reasonable measures should be undertaken by the Reporting Entity to independently verify the veracity of the information disclosed by the client.

Although the General Instruction indicates that it will become enforceable 90 days after its publication in the Chilean Official Gazette, this is September 11, 2017, administrative instructions of the UAF have instructed otherwise by imposing the following schedule:



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- 1 Existing permanent customers until June 12, 2017:** Information on beneficial ownership shall be collected, recorded and be available by October 1, 2018; and
- 2 Permanent customers who enter after June 12, 2017:** Such information must be collected before or at the time of establishing the commercial relationship.

For transactions by non-permanent legal entity clients (e.g. spot) such obligations will apply only if the transaction is for an amount equal or in excess of USD15,000 or its equivalent in Chilean pesos or other currencies. The exchange rate into US dollars is taken by the "dolar observado" value on the last day of the month prior to the transaction or operation (e.g. if the transaction took place on July 8, 2017, the exchange rate into US dollars will be USD1 to CLP675,31 i.e. May 31, 2017 "dolar observado's" value).

In addition, the following obligations must be fulfilled:

- ***Registration:*** The client's information as to any Beneficial Owner shall be incorporated and updated in the KYC Records and updated upon any changes.
- ***Politically Exposed Persons ("PEPs"):*** If one or more individual listed as Beneficial Owner are PEPs, all controls applicable for PEPs shall be also applicable to the legal entity (e.g. management approval of the relationship, identification of source of wealth/income, enhanced permanent monitoring).
- ***Insufficiency or lack of information:*** any unjustified or refusal to provide the foregoing information must be considered as a red flag and thus determine whether a Suspicious Transaction Report (STR) must be filed.
- ***Update of the AML / CTF Manual:*** Reporting Entities must update their AML/CTF Manuals to include all foregoing obligations and ensure their training among personnel.

The UAF has uploaded onto the Reporting Entities online platform a template for these purposes. Please note such template is optional as Reporting Entities may implement alternative mechanisms to collect and record this information.

