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➤ LAW NO. 20,715: ON PROTECTION TO DEBTORS OF MONEY LOANS

On December 13, Law No. 20,715 was published in the Official Gazette, after an intense debate in the financial industry and over 2 years of discussion in Parliament. The new law modifies Law No. 18,010 on regulations on money loan transactions, Law No. 19,496 on protection of consumer rights and the Chilean Tax Code.

In what refers to money loan transactions, Law No. 20,715 extends the application of the regulations for credit transactions and other money obligations to family assignation compensation institutions, insurance companies or savings and loans cooperatives, or any other institution placing funds by means of large money loan transactions, so that said entities will be subject to the supervision of the Superintendency of Banks and Financial Institutions (the "SBIF").

As for the determination of the current interest, the law allows the SBIF to establish the limits to the current interest by segments of credit considering the market's relevant aspects such as: volume, current interest rates, usual interest rates of effective and substitute transactions and credit cards' revolving interest rates.

The law forbids from setting an interest exceeding the product of the corresponding principal and the higher of: (a) 1.5 times the current interest rate in force at the time of the agreement, as determined by the SBIF for each kind of money loan transaction and (b) the current interest rate in force at the time of the agreement increased in 2 annual percentage points, being either a fixed or variable rate. This interest limit will be the new maximum conventional interest.

If any entity does not comply with the regulations of the new law, the SBIF may sanction it with: (i) warning or admonishment and (ii) a fine of up to UF 5,000 (US\$220,000). In a case of repeated infractions of the same nature, a fine of up to five times the aforementioned amount may be applied.

In addition, special rules are also established regarding maximum rates for loans under UF 200 (US\$8,800) and, in the case of microfinance, for those under UF 40 (US\$1,750). It should be noted that the latter will enter into force on June 14, 2014.

Additionally, the law allows prepayment a loan, even against the will of the creditor, if the loan does not exceed the equivalent of UF 5,000 (US\$220,000) and prepayment covers certain minimum expenses and exceeds 20% of the balance of the obligation.



Si tiene consultas respecto de los temas comentados en esta alerta, puede contactar a los siguientes abogados o a su contacto regular en Carey.

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Regarding the compliance of loan and money obligations, the law states that debtors whose commitments are of a principal below UF 200 will not be enforceable unless 60 continuous days as of the debtor's default have passed. This exception will also apply to money loan transactions with mortgage guarantees whose principal is equal or below UF 2,000 (US\$88,000). It should be noted that any agreement to the contrary of such provisions will be deemed void.

Finally, the law forbids charging extrajudicial collection costs in amounts exceeding the percentages established in the regulation, stating that said charges may only be applied after 20 days of default, while the unpaid principal of the debt is not paid in full. It is also established that the charges of extrajudicial collection may not, in any case, accrue an interest higher than the current amount nor may they be capitalized for purposes of increasing the allowed amount of collection expenses.