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LEGAL ALERT

Chilean Central Bank launches public consultation about liberalization of Foreign Exchange Regulations

On July 3, 2020, the Central Bank, pursuant to the resolution of its Board issued on July 2, 2020, launched a public consultation on proposed amendments to Annex No.1 to Chapter I of the Compendium of Foreign Exchange Regulations ("CFER").

The proposed amendments are a part of the process of modernization of the Central Bank's foreign exchange regulations, whose first stage occurred in December 10, 2019, through the enactment of a new Chapter I of the CFER, among others. In this sense, the Central Bank's Board begins with this public consultation the second stage of said modernization process, through which it seeks to expand cross-border operations that are authorized to be carried out in Chilean pesos ("Pesos").

Basis for the amendments

The Organic Constitutional Law of the Central Bank ("LOC") establishes that the purpose of that entity is to ensure the stability of the currency and the normal operation of internal and external payments. For these purposes, the LOC empowers said institution to enact rules on foreign exchange matters, as well as to impose restrictions and limitations on foreign exchange transactions, among others. Although to date there are no foreign exchange restrictions in force, the CFER contemplates the existence of foreign exchange limitations, mainly two: (i) that certain foreign exchange operations must be carried out exclusively within the Formal Exchange Market, i.e. the one conformed by banks and some other authorized entities ("FEM") and (ii) that the performance of certain foreign exchange operations must be reported to the Central Bank.

Additionally, Article 42 of the LOC states that the foreign exchange operations that must be carried out in the FEM cannot be executed in local currency or other assets, unless the Central Bank authorizes it expressly.

In that context, Annex No.1 to Chapter I of the CFER establishes which foreign

exchange operations (of those that must be executed in the FEM) are authorized to be executed in local currency.

Regulation on public consultation

The amendments on public consultation incorporate a new section 3. to Annex No.1 to Chapter 1 of the CFER, which aims to authorize the execution of the following foreign exchange operations in local currency:

- Derivative agreements whose settlements or payments contemplate the physical delivery of Pesos.
- Opening and maintaining of bank current accounts in Pesos by people or entities not domiciled or non-residents in Chile.
- Granting of credits (as said term is defined in Chapter XII of the CFER) by persons domiciled or residing in Chile to persons domiciled or residing abroad.
- Deposit or investment operations (as said terms are defined in Chapter XII of the CFER) abroad carried out by persons domiciled or residing in Chile.
- Other operations contemplated in Chapter XIV of the CFER, carried out by persons not domiciled or non-residents in Chile.

The performance of any of these foreign exchange operations must be reported by the participants to the Central Bank through the forms and systems that the Central Bank will indicate for such purposes.

The authorization with respect to the operations of numbers 1), 2) and 3) above will come into effect as of January 1, 2021. The authorization regarding numbers 4) and 5) above will come into effect as of July 1, 2021.

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