

CMF PUBLISHES FOR CONSULTATION RULE GOVERNING INVESTMENT ADVISORY SERVICES

The Financial Market Commission ("CMF") published for public consultation the rule that will regulate investment advisory services in Chile, specifically the requirements and procedures for registration, cancellation and suspension in the Registry of Investment Advisors (the "Registry") and the obligations to which such advisors will be subject to, including the requirements regarding the disclosure of information. The CMF will receive comments until March 25, 2022. The new rule is issued pursuant to Article 3 of Law No. 21,314 (the "Law") published on April 13, 2021, which aimed at establishing new transparency requirements and reinforcement of responsibilities for market agents.

The Law defined "investment advisory services" as the rendering, by any means, of services or the offering of products to the public or specific sectors thereof, related to investment in financial instruments of any kind. The Law determines that whoever, other than banks, insurance and reinsurance companies, securities intermediaries, fund managers and supervised portfolio managers (entities already supervised by the CMF), is regularly engaged in providing this service, must be registered in the Registry.

The proposed rule establishes that individuals and legal entities who intend to make recommendations on a regular basis, by any means, related to the investment in financial instruments of any kind and directed to the public or to specific sectors of the public, must first register with the CMF.

The term "investment advisory services" does not encompass pension financial advisory services, which are governed by the provisions of NCG No. 459, issued jointly by the CMF and the Superintendency of Pensions. Likewise, those who perform activities or services of price projections of assets, goods and services, and economic and financial analysis, which do not include investment recommendations, are not subject to the obligation of registration in the Registry.

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The proposed rule sets out the information required to apply for registration in the Registry, distinguishing between individuals and legal entities, and the obligations applicable to investment advisors registered in the Registry, consisting mainly on implementation of certain policies, procedures and controls, including a code of conduct, in order to ensure the truthfulness and suitability of the recommendations, the prioritization of the interests and needs of their clients, and the independence and knowledge of the advisors, among other aspects. Likewise, special provisions are established with respect to advisory services that are the result of IT/computer processes without human intervention.

Finally, the proposed rule establishes the information that investment advisors must disclose to the public.

It is expected that in the consultation process, the proposed rule is supplemented by including a distinction between investment advice provided exclusively to qualified investors and investment advice provided to the general public, since the risks involved in the advice vary depending on the type of client, taking into account their knowledge and experience in the market (for example, exempting those who provide services only to qualified investors from the obligation of registration in the Registry) and distinguishing between domestic or foreign entities that provide investment advice to clients located in Chile.

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