

CMF PUBLISHES GENERAL RULE NO. 489, WHICH REGULATES ADMINISTRATORS OF LOW-VALUE PAYMENTS CLEARING HOUSES

On November 21, 2022, the Financial Market Commission (the "CMF") published the General Rule No. 489 ("Rule 489") complementing the provisions of Chapter III. H. 6 of the Compendium of Financial Regulations of the Central Bank of Chile (the "BBCh"), which authorizes the creation and regulates the operation of Low Value Payment Clearing Houses (the "Clearing Houses"), establishing instructions to the administrators of Clearing Houses (hereinafter, the "Administrator").

Operating authorization

Rule 489 establishes that banking companies, when participating as an Administrator, will not be obliged to seek operating authorization from the CMF, submitting an economic and financial feasibility study to the CMF beforehand. On the other hand, non-banking entities that already have the authorization to operate as an Administrator must apply for operating authorization again, as well as those entities that must modify their by-laws to include the powers for the administration of Clearing Houses.

The information required to apply for the operating authorization includes, among others, the following:

- Nature and characteristics of the payment orders that it intends to accept and clear.
- Strategic plan and business model, including financial and capital projections, and possible capital increase needs.
- Availability of sufficient resources, considering IT and technological infrastructure aspects.
- The Operating Regulations, previously approved by the BCCh in the manner described below.
- Other information that may be required by the CMF.

Once the above has been verified, the CMF will issue a resolution

This news alert is provided by Carey y Cía. Ltda. for educational and informational purposes only and is not intended and should not be construed as legal advice.

Carey y Cía. Ltda.
Isidora Goyenechea 2800, 43rd Floor.
Las Condes, Santiago, Chile.
www.carey.cl

approving the operation and shall register the entity in a Administrators' Register (Nómina de Administradores). The Administrator will be authorized to act in its capacity since the resolution issued by the CMF indicated above.

Those entities that operate as Administrator must maintain a paid-in capital of not less than UF 10,000 (USD 380,000 approx.), regardless of other capital and reserve requirements that must be maintained for other activities related to its business. The above will be reviewed quarterly.

Risk management

Entities shall comply with a risk management plan appropriate to their business plan, complying at least with the following characteristics:

- It must be approved annually by the board of directors or equivalent body.
- Assigning responsibilities and accountability lines.
- Define the level of risk tolerance and key indicators to monitor the different risks, along with the mechanisms to mitigate the risks already identified.
- Include the liquidity and operational risk control measures described below.

Liquidity risk

The Administrator must, prior to the beginning of each clearing cycle, ensure the availability of resources to settle the transactions received by the Clearing House. This will be done based on the net debit balances determined for the respective clearing cycle.

Operational risk

The Administrator shall ensure at least the following elements in its operational risk management policy (the “**Operating Regulations**”):

- Policies that are reviewed annually, approved by the board of directors or equivalent body and audited by the internal audit unit on a periodical basis.
- Consistency with the volume and complexity of the activities.
- Clear definition of roles and responsibilities in relation to operational risk.

- Definition of a level of risk tolerance and operational risk indicators.

Additionally, the Administrator must have a business continuity plan, considering at least one alternative processing site, to resume operations in case of failure within a prudent time interval.

Information requirements

The Administrator must have the necessary procedures and equipment to ensure the security of the information related to the Clearing House, its participants and the transactions cleared in it.

In addition, the Administrator must submit or report to the CMF the following information:

- It's annual and intermediate financial statements. The latter must refer to the last day of March, June, and September of each year, respectively.
- Any change in the background information submitted to the CMF when requesting the operating authorization and any fact that is considered essential in accordance with the Law.
- The Administrator's Annual Report and the minutes of shareholders' meetings and board meetings.
- The essential information of each agreement that the Administrator enters into with a new participant of the Clearing House, together with the background information with which it accredits that the new participant has sufficient guarantees to ensure the proper functioning of the Clearing House.
- Information concerning indirect participants of the Clearing House.
- Violations of rules issued by the BCCh or the CMF, which must be reported immediately.

Sanctions

The BCCh may request the opinion of the CMF regarding the revocation of the operating authorization granted to an Administrator, and in case of revocation of the above-mentioned authorization, the CMF will be responsible for indicating how to clear the then outstanding transactions.

Authors: Felipe Reyes; Alejandro Toro