

October 17, 2023

LEGAL ALERT

Commission for the Financial Market opens consultation on financial services providers

As part of the implementation process of Law No. 21,521, also known as the “Fintech Law”, the Commission for the Financial Market (“CMF”) opened for public consultation, a proposal for providers of financial services that are within the regulatory scope of the Fintech Law, which refers to those who professionally engage in the provision of collective financing platform services (crowdfunding), alternative transaction systems, intermediation of financial instruments, order routing, credit advisory, investment advisory, and custody of financial instruments.

The regulatory proposal contemplates regulation that mainly refers to the following matters: (a) registration of entities in the Registry of Financial Services Providers of the CMF; (b) authorization of such entities to provide the services regulated by the Fintech Law; (c) reporting and disclosure requirements before clients or the general public that such providers must comply with; (d) corporate governance and risk management requirements (including operational risks) that apply to such entities; (e) minimum capital requirements and guarantees that will be required with respect to these services providers; (f) operational capacity requirements that will apply to them; and (g) some activities that are inherent to the services regulated by the Fintech Law.

According to the CMF, it is expected that the contributions received during this consultation process mainly focus on the following areas: (a) relevant costs derived from the compliance with these instructions that make the emergence of new players or the development of new business models unlikely; (b) aspects in the proposal that make advisable to establish customized regulatory burdens proportional to size, volume, number of clients, or other factors; (c) features of the proposal in which the establishment of additional requirements is recommended, given that the public faith in the market, the stability of the financial market, or the protection of clients is compromised; (d) provisions that are unclear or that require greater precision; and (e) potential risks or benefits derived from certain provisions included in the proposal.

Along with this proposal, the CMF has opened for consultation regulatory projects that are related to the requirements to prove suitability for the performance of functions, which is a rule that would replace General Rule No. 412 of the CMF; as well as in relation to the reporting requirements that apply to entities providing recommendations to acquire, maintain or dispose of publicly offered securities, or that involve the definition of objective prices.

Other background information on the regulation under consultation, as well as the possibility to comment on it, are available at the following link. The CMF will receive comments until November 10, 2023.

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