

April 20, 2021

## LEGAL ALERT

# **<span>EFFECT WITH RESPECT TO INVESTMENT ADVISORY</span> of Law No. 21,314 which regulates market agents and pension advisors**

On Tuesday, April 13th of 2021, the above referred law that establishes new requirements for transparency and strengthens the responsibilities of market agents, regulates the social security advice and other matters indicated therein, was published in the Official Gazette (hereinafter, the “**New Law**”).

Article 3° of the New Law regulates the provision of investment advisory services in Chile, which, by virtue of the latter, is henceforth subject to the supervision of the Commission for the Financial Market (the “**CMF**”).

### **Investment Advisory**

Investment advisory is defined as the provision, by any means, of services or the offering of products to the general public or to specific sectors of it, as long as it is related to investment in financial instruments of any kind.

### **Registration obligation**

Investment advisory may only be provided on a habitual basis by (i) those registered in the registry that the CMF will keep for that purpose (the “**Registry**”), and (ii) those entities that, according to article 3° of the New Law, are exempted from such registration (banks incorporated in Chile, insurance and reinsurance companies, intermediaries of publicly offered securities, fund managers authorized by law and portfolio managers supervised by the CMF).

### **General Rule**

According to the second transitory article, as of its publication, the CMF will have 12 months to enact a general rule (the “**General Rule**”) by means of which it shall establish:

- requirements for the registration in the Registry, cases and procedures for cancellation and suspension thereof;
- if the CMF deems it necessary for the proper functioning of the financial market, the requirements that investment advisers must meet in terms of solvency, risk management, suitability and conduct;
- minimum information that investment advisers must provide to the general public and to the CMF; and
- requirements that must be met by any information provided to the public and containing investment recommendations, in relation to the disclosure of the following matters: risk, costs, expected returns, conflicts of interest, and professional profile of those responsible for such information, among others.

In addition, the CMF is authorized to issue differentiated regulations by virtue of (a) the nature of the investment services or products offered to the public and (b) the number of clients that may be affected.

Information, propaganda or advertising through which investment-related products or services are offered

In accordance with article 3, none of the above may contain statements, allusions or representations that may induce to error, or that are misleading or may cause confusion to the public about the nature, prices, profitability, redemption, liquidity, guarantees, supervision or any other characteristic of such products or services or those related to those who provide them.

### **Deferred effectiveness of article 3°**

In accordance with the second transitory article of the New Law, article 3 of the New Law, and therefore all the regulations herein explained, will be only in force 90 days after the General Regulation has been issued.

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