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‹SPAN› EFFECTS ON INSURANCE REGULATION ‹/SPAN› OF LAW NO. 21,314 WHICH REGULATES MARKET AGENTS AND PENSION ADVISORS

On April 13, 2021, Law No. 21,314 was published in the Official Gazette, which, among other matters, set new transparency requirements and reinforce the responsibilities of market agents (the "Law").

Relevant modifications to the current insurance regulation:

Amendments to Decree with Force of Law No. 251 of 1931 ("Insurance Act").

Article 5 of the Law amends the Insurance Act, among others, in the following matters:

• Insurance consultation system (new Article 12). It creates a new digital insurance consultation system, with accessible, free of charge for policyholders or insured parties under insurance policies or those who have an interest in accessing such information. The Commission for the Financial Market (“CFM”) shall determine through general rules ("NCG"): (a) the measures to protect the identity of individuals accessing this system; (b) the information that insurers must provide to the CFM and any relevant matters for the proper operation of the system; and (c) how consent of the policyholders or insured parties must be provided so that insurers may exchange information of their insurances and may send them insurance offers.
• Insurance related with mortgage loans (amendment to Article 40). Among others, the Law prohibits that:

• the tender rules require insurance companies to include an insurance broker in their offer;
• insurance brokers who have advised the bidding financial entity of being taking part of the tender process;
• the bidding financial entity to replace the insurance broker included in the awarded offer; and
• payments to the bidding financial entity other than the claims

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compensation during the policies term.

The amendments to Article 40 of the Insurance Act shall only apply to tender processes that begin after the entry into force and effect of the Law.

• Insurance sales agents (amendment to Article 57). Provides that the sales agents' registry shall be kept exclusively by the CFM.
• Annuity sales agents (new Article 57 bis). Requires the registration and maintenance of life annuity sales agents in a special CFM's registry. In this regard, the CFM shall determine by means of a a general rule (NCG) the requirements for registration in such registry.The amendments to the Insurance Act shall enter in force and effect 60 days after the CFM issues the general rule (NCG), which must be issued within 12 months since the publication of the Law.

Amendments to the Commercial Code ("C.Com") .**

Article 8 of the Law amends the C.Com as follows:

• Insurable interest of financial entities in insurance related with financial products or services (new article 520 bis). It expressly recognizes an insurable interest of financial entities that grant credits on insurance related to a credit that protects the assets given as guarantee/security or insures the payment of a money credit obligation.
• Insurance related with financial products or services and voluntary insurance subject to ratification by the policyholder (new article 538 bis). Regulates the contracting of:

• insurance related with financial products or services (i.e., insurance that insures the goods given as guarantee and/or for the payment of the debt). The CFM shall determine by means of a NCG which are these insurances; and
• voluntary insurance (i.e., insurance that does not comply with (a) above) and the necessity for such insurance to be ratified by the contracting party of the credit in a subsequent act, which must meet certain requirements:

• In writing;
• Personally, or by e-mail or other equivalent means;
• Without a mandate (mandato) to the lender;
• Within 30 days of the execution of the voluntary insurance; and
• Must expressly and clearly state the will that it is ratifying the

contracting of a voluntary insurance that is not related to the granting, renegotiation or repayment of the contracted operations.

The premium for voluntary insurance may only be collected from the date of ratification. Likewise, the risks shall be borne to the insurer from the date stated in the insurance policy or, otherwise, from the moment of ratification.

The CMF shall issue the general rule (NCG) on insurance related to financial products or services of the new Article 538 bis C.Com within four months since the publication of the Law. Article 538 bis C.Com shall enter into force and effect 60 days after the NCG is issued.

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