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FINTECH LAW AND NEW REPORTING ENTITIES BEFORE THE FINANCIAL ANALYSIS UNIT

On January 4, 2023, Law No. 21,521 was published, which promotes competition and financial inclusion through innovation and technology in the provision of financial services ("Fintech Law").

The Fintech Law introduces a series of legal amendments to various regulatory bodies, including Law No. 19,913, which creates the Financial Analysis Unit ("UAF") and amends various provisions on money laundering ("Anti-Money Laundering Act").

The Fintech Law expands the list of reporting entities before the UAF. Thus, with the enactment of the Fintech Law, Article 3 of the Anti-Money Laundering Act includes two main groups of subjects as reporting entities under the supervision of the UAF:

1. Those who are registered in the Registry of Financial Service Providers and in the Registry of Providers of Payment Initiation Services maintained by the Financial Market Commission ("CMF") and provide the services of crowdfunding platforms, alternative transaction systems, custody of financial instruments, intermediation of those instruments, and payment initiation.The Fintech Law defines "crowdfunding platform services" as the physical or virtual place through which those who have investment projects or financing needs spread, communicate, offer or promote those projects or needs, or the characteristics thereof, and contact or obtain contact information of those who have available resources or the intention to participate in or satisfy those projects or needs; in order to facilitate the materialization of the financing operation.In turn, the Fintech Law considers "alternative transaction systems" as the physical or virtual place that allows its participants to quote, offer or trade financial instruments or publicly offered securities, and that is not authorized to act as a stock exchange or as a commodities exchange.

It states that "financial instrument" is any security, contract, document or intangible asset, designed, used or structured for the purpose of generating monetary income, or representing an

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outstanding debt or a virtual financial asset.

In addition, “virtual financial asset or crypto-asset” means a digital representation of units of value, goods or services, other than money, whether in local currency or foreign currency, that can be transferred, stored or exchanged digitally.
2. Individuals or legal entities that by virtue of any of their transactions are subject to CMF supervision and that have voluntarily requested their registration in the Registry of Reporting Entities maintained by the UAF. The aforementioned voluntary registration may not be canceled as long as the individual or legal entity has not lost the status of being supervised by the CMF.

The Fintech Law adds that the UAF will be empowered to issue differentiated and proportional instructions (e.g., general instructions –“circulares”-) for different types of reporting entities, based on the nature of the transactions they carry out and in consideration of the actual risks to which these entities are exposed of being used for the commission of money laundering and terrorist financing offenses.

The Fintech Law will enter into force 30 days after its publication in the Official Gazette, with the exception, among others, of Title II regarding the services of crowdfunding platforms, alternative transaction systems, credit and investment advisory, custody of financial instruments, order routing and intermediation of financial instruments, which will be in force as of the date of entry into force of the respective regulations issued by the CMF.

Finally, the persons and entities that provide the services of Title II referred to above, must comply with the obligation to request their registration and authorization to operate before the CMF in the terms established in the general rule issued for such purpose, within a term not exceeding 12 months from the entry into force of the aforementioned rule.

The Fintech Law is available at:

https://www.diariooficial.interior.gob.cl/publicaciones/2023/01/04/43442/01/2246446.pdf

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