

September 8, 2020

LEGAL ALERT

Law on Financial Portability comes into force

The Rule of the Law No. 21,236, on Financial Portability (the “Rule”), was published today in the Official Gazette, which sets the beginning of the validity of the latter.

The Rule’s main provisions can be summarized as follows:

- The “financial products or services” definition is specified, excluding savings or investments products or services (term deposits, savings accounts, etc.);
- The financial portability request can be made either on a physical or digital manner, and the initial required providers (the current providers) shall both verify the identity of the requestor and to keep backups for at least as long the financial portability process is in place;
- The providers shall keep financial portability forms at their clients’ disposal, pursuant to the minimum content set forth in the Rule;
- The providers shall also make available a section in their websites, informing the channels by means of which other providers (the prospective new creditors) may request them the issuance of both liquidation and stamp tax payment certificates, for purposes of the portability process;
- It is regulated the initial providers’ obligation to provide digital copies of the appraisals and title deed due diligences that may have been performed on the collateral, if any, and the obligation to keep at least digital copies of the same for as long as the security remains granted in their favor;
- The portability offer’s content is determined, which among other things, allows the client to make an expedite comparison between its current products’ conditions and the conditions of the new offered products. The format of this offer is set forth in the Rule;
- It is set that the minimum validity of the portability offer is 7 banking business days as from its issuance;
- It is specified that the prospective new providers can, at all times, reject the contracting, even after the offer is accepted, based on an objective reason, pursuant to Law No. 19.496 and its rules;

- It is set that the mandate for products termination, granted by the client to the new provider by its sole acceptance of the portability offer, is gratuitous and shall have a 3 month-validity, although it will expire if the assignment has been fulfilled before expiring such term;
- It is set a whole special procedure related to block and termination of products, delivery of balances in favor of clients and others;
- Regarding portability with subrogation (i) it is set a maximum term of 6 banking business days for the new provider to make the relevant payment to the initial provider; (ii) it is specified that it is solely applicable to loans that may be terminated by its mere payment; (iii) it is specified that is solely applicable to securities, not guarantees; (iv) special rules are established for contracts with a general security clause, and (v) the evidence of special credit subrogation is regulated in detail, for the purposes of the relevant registries.
- The situation of the insurances related to credits subject to portability is specified, and
- The financial portability with the same provider is regulated.

Both the Law of Financial Portability and its Rule come into force on this date.

[1] **Nota al editor (borrar antes de publicar): Introducir link a news alert anterior sobre portabilidad financiera (en inglés).**

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