

July 15, 2024

## LEGAL ALERT

### New Law No. 21.680 that creates a Consolidated Debt Registry

On July 3, 2024, Law No. 21.680, which creates a Consolidated Debt Registry (hereinafter referred to as the "Law"), was published in the Official Gazette.

This Law aims to centralize information on financial debts, thus improving the credit evaluation of individuals and providing more data to the Financial Market Commission (CMF) for its regulatory functions. Financial institutions and other entities under CMF supervision will have access to the registry to assess commercial and credit risks, on the condition that information on debts overdue for more than five years or prescribed is not available without the explicit consent of the debtor, which must be properly recorded in writing, verbally, or electronically.

This Law ensures that debtors have access to their credit information in the registry, allowing them to know the details of their reportable obligations, their payment status, and a history of who has accessed their information in the last twelve months. This provides greater transparency and enables consumers to understand their credit situation and the management of their personal data. It also ensures that consumers fully understand the conditions under which their credit is evaluated, promoting fair and equitable treatment in consumer relations.

Reporters must maintain the confidentiality and privacy of the information obtained and are required to delete it once its purpose has been fulfilled, ensuring that personal information is not misused and that the procedures for terminating credit contracts are transparent and well-informed.

#### On Liability, Infractions, and Applicable Sanctions

The CMF will oversee compliance with the obligations and establish a general control procedure in the event of the reporter's failure to update, rectify, supplement, or cancel the debtor's information in the registry, without prejudice to the exercise of the powers of the competent authorities in

accordance with Laws No. 19.628 on the Protection of Privacy and No. 19.496 on the Protection of Consumer Rights.

To file a complaint with the Commission, the debtor must have exercised their rights with the reporter, either directly through the channels that the reporter has for these purposes or through an electronic and automatic system provided by the CMF to manage these requests.

Regarding the various infractions that a reporter might commit, the Law classifies them as minor, serious, and very serious. Minor infractions include neglecting to send information to the CMF, failing to comply with general instructions, and other minor infractions; serious infractions include, for example, processing information without consent and handling inaccurate data, among others; and very serious infractions refer to maliciously using information for non-consented purposes, communicating false data, and failing to comply with CMF resolutions.

Sanctions applicable to reporters in case of non-compliance may consist of warnings, fines ranging from 100 to 10,000 monthly tax units, imprisonment for those who engage in serious and very serious conduct—which, in case of recurrence, could be tripled—considered as first-category economic crimes according to Article 1 of Law No. 21.595 on Economic Crimes, and suspensions of access to the registry for up to one year, without exempting reporters from their reporting obligations.

Mitigating factors include the reporter's cooperation in investigations, the absence of prior sanctions, and self-reporting, while recurrence and the continuous nature of the infraction will act as aggravating factors. The CMF may require the adoption of corrective measures to remedy the infractions that led to the sanction, which must be implemented within no more than 30 days; otherwise, a 50% surcharge will be imposed on the fine.

## **Entry into Force**

The Law will come into effect on the first day of the twenty-first month following its publication in the Official Gazette.

The CMF must create and have the registry enabled before the first day of the sixteenth month from the publication of the Law.

Finally, the reporting obligation to the registry for reporting entities will apply from the first day of the sixteenth month from the publication of the Law, or from the first day of the eighteenth month from the publication of the Law, depending on the type of entity involved.

Authors: Guillermo Carey; Aldo Molinari; Mónica Pérez; Kureusa Hara