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LEGAL ALERT

Central Bank introduces an amendment to Payment Cards Operation regulations

On December 26, 2018, the Central Bank of Chile published an amendment to Chapter III.J.2 of its Financial Regulations Compendium, on Payment Cards Operation, after a one-month public consultation that allowed the general public to make comments or observations to the proposal.

The main amendments can be summarized as follows:

1. ** Review of the definition and requirements of the Brand Holder, for Operation purposes: **In addition to specify certain aspects related to the required risk classification, it is now ruled that the Brand Holder can be a foreign State, a foreign public or private entity or a foreign company owned or managed by a foreign State, to the extent that the long-term sovereign debt of such foreign State has at least a BBB risk rating, or its equivalent.¹
2. **Incorporation of a new Operation method:** A new alternative is set, allowing Payment Card Operators to provide their services by means of an agreement with another Operator, to the extent that this agreement determines, at least: **(i)** which party will assume the responsibility for the payment to the affiliated merchants, and **(ii)** the necessary measures to ensure the settlement and/or full and timely payment of the transactions owed to the affiliated merchants.
3. ** Reinforcement of the non-exclusion principle in the Operation: **Operators are now prohibited to set arbitrary provisions, restrictions or limitations on their agreements with other Operators or Payment Processing Services Providers (“PSP”). Pursuant the new regulations, if an Operator denies the request by another Operator or PSP for entering into an agreement, the denying Operator must communicate such decision in writing to the denied requestor, and such rejection must be based on objective conditions.
4. **Extension of the limit for the Operation activities that a Payment Processing Services Provider (“PSP”) may perform: **The total of payments

that, on an exceptional basis, a PSP is authorized to make to affiliated entities is extended from 0.5% of the total amount of the contracting Operator's annual payments, to a 1% of the total amount of all the payments made by all the Operators subject to the rules set forth by the Central Bank of Chile, within the preceding 12 months, including a new calculation formula for such limit.

5. Payment Cards issued abroad: The requirements for the use in Chile of Payment Cards issued abroad under a Payment Cards brand not issued in Chile has been flexibilized, allowing the foreign Brand Holder to directly enter into an agreement with a local Operator for such purposes.

1 The amendment does not set the possibility of an Operator, upon authorization by the SBIF, to enter into an agreement with a Brand Holder that does not meet all requirements set in the relevant regulations, which was something considered in the bill proposal.

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