

December 7, 2017

LEGAL ALERT

Payment Cards: Superintendence of Banks and Financial Institutions issues new regulations

On November 28, 2017, the Superintendence of Banks and Financial Institutions (“**SBIF**”) issued four regulations regarding debit, credit and prepaid cards (the “**Payment Cards**”), with the purpose of complementing and making fully applicable the reforms contained in the Law 20,950 and the new regulations regarding retail payment methods, previously issued by the Central Bank of Chile, in the following terms:

1) Rule No 1, which contains general provisions applicable to non-banking entities who issue Credit and Prepaid Cards (the “Non-Banking Issuers”).

The most relevant provisions set by this Rule No 1 are as follows:

1. Provisions regarding the information to be requested by the SBIF to the Non-Banking Issuers when an application for existence and registry in the Payment Cards Issuers Register is filed;
2. Algorithms and calculation parameters of the minimum patrimony and liquidity requirements required. This patrimonial requirement will be reviewed by the SBIF on a quarterly-basis;
3. Enactment of an integral framework regarding management and risks control, whose minimum content is fixed by the SBIF;
4. Minimum contents of the contracts agreed between Non-Banking Issuers, Payment Cards operators and the persons who accept Credit and Prepaid Cards as payment methods (“**Affiliated Entities**”);
5. Credit and Prepaid Cards characteristics and use conditions;
6. Basic information, and reports and periodic communications that must be delivered to the SBIF, being expressly applicable, among others, the provisions of Chapter 20-8 of the updated regulations compendium issued by the SBIF (“**RAN**”), regarding immediate notification of relevant operational contingencies;
7. Accounting and financial regulations applicable to Non-Banking Issuers, among which it can be highlighted the guidelines regarding credit risk provisions, the accounting treatment of the unpaid credits, and the

financial information model to be provided to the SBIF, all of which have similar logics than the banks provisions, and

8. Provisions regarding supervision of the Non-Banking Issuers, expressly establishing the authority of the SBIF for performing exhaustive inspections regarding all the matters of its interest, within its powers' framework.

2) Rule No 1, which contains general rules applicable to Payment Card operators.

The following rules can be highlighted:

1. Provisions regarding the background that SBIF will request, when an application for existence and registry in the Payment Cards Operators Register is filed;
2. Algorithms and calculation parameters of the minimum patrimony and liquidity requirements required to the Payment Cards operators.
3. Enactment of an integral framework regarding management and risks control, whose minimum content is fixed by the SBIF, and
4. Basic information, and reports and periodic communications that must be delivered to the SBIF, among which it can be highlighted the communication of the fees that the Payment Cards operators charge for their services, the list of their payment processing service providers and the information regarding the foreign issued cards operation.

**3) Rule No 2, which contains common rules regarding operational and safety measures in the issuance and operation of Payment Cards. **

By means of this Rule, the SBIF establishes common provisions regarding operational and safety measures for the issuance and operation of Payment Cards, which are supplementary of the integral management and risk control framework, required either for Non-Banking Issuers, as to Payment Cards operators.

It can be highlighted the express references to the Chapters 20-7, 20-8 and 20-9 of the RAN, referred to outsourcing requirements, operational continuity and immediate notification of relevant operational contingencies, respectively; and also the establishment of general requirements applicable to the transactional systems, authorization and registry of transactions and other similar rules regarding safety and frauds prevention.

4) New Chapter 8-41 of the RAN, named as to “Payment Cards”.

This regulation contains different provisions applicable to the issuance of Payment Cards by banks under SBIF supervision, who will be automatically

registered in the Payment Cards Issuers Register.

It is possible to highlight the following:

1. Provisions regarding minimum contents of the contracts agreed between the banks that issue Payment Cards (“**Banking Issuers**”) with the Affiliated Entities, including the economic responsibility of every party because of an irregular use of the Payment Cards and the applicable fees structure;
2. Provisions regarding minimum contents of the contracts agreed between Banking Issuers and the Payment Cards operators, including a regulation according to which, the databases created as a result of the administrative processes of the Payment Cards cannot be used by third parties, different from the Banking Issuers and the Payment Card operators, and
3. Periodical report obligations to the SBIF.

This new Chapter 8-41 replaces and revokes Chapters 2-15 and 8-3 of the RAN, regarding credit and debit cards, respectively.

It is important to note that other 4 Rules have been also issued, in order to introduce the necessary adjustments in these matters, due to this new regulation, to the provisions applicable to Banks, banking supporting companies and cooperatives.

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