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LEGAL ALERT

SERNAC begins the process of monitoring compliance with Law No. 20,009 which limits users' liability for fraud

New Law No. 21,234, which amends and replaces Law No. 20,009, entered into force on May 29th, 2020. This norm aims to provide more protection to consumers and extending the liability of financial institutions against payment card and electronic transaction fraud.

In this regard, the National Consumer Service (SERNAC) has initiated an oversight process to monitor (i) how institutions are informing consumers of their new rights and (ii) how the value of anti-fraud insurance is being reduced with respect to those risks already covered by the new law.

New rights for consumers

****1.1. Deadlines to reimburse of defrauded money****

Under law No. 20,009, if a person is a victim of fraud in his payment cards or electronic transactions, financial institutions must return the money or cancel the collection of the transactions unknown to the consumer within 5 working days from the date of the claim, when the total amount claimed is equal to or less than 35 development units ("UF").

With respect to the amount over 35 UF, the issuer will have 7 additional days to cancel them, return them, or sue the user before the Local Courthouse's judge, if there are antecedents that would allow the existence of fraud or serious fault of the user. In this case, the user must be notified of the decision taken.

****1.2. Blocking of inactive consumer products****

As a preventive measure against fraud, the Law obliges financial institutions to block consumers' inactive products when more than 12 consecutive months pass

without the product being used, after notifying the user of this situation.

****1.3 Biannual publication of the fraud register****

In order for consumers to make an informed consumption decision, the norm requires companies to publish, every six months, on their web portal, a record of all frauds suffered by consumers, indicating the amounts involved and the deadlines by which they have responded or complied with their obligations.

Prohibition on providing fraud insurance to consumers

The new law prohibits financial institutions from offering fraud insurance to consumers whose coverage corresponds to risks or claims that they must assume according to the new law.

SERNAC is monitoring that companies do not continue to charge for anti-fraud insurance previously contracted by users. Thus, in the event that additional coverage exists, the companies must reduce the cost of the premium in a proportional manner, notwithstanding the right of consumers to renounce his/her anti-fraud insurance.

Statistics and actions taken by SERNAC in response to fraud

So far in 2020, SERNAC has registered more than 8,300 complaints related to financial fraud.

From 2018 to date, the Service has initiated 13 procedures against the lack of response to consumers for cloning and impersonation frauds, consisting of mediations, new voluntary collective procedures and collective actions.

Authors: Guillermo Carey; Aldo Molinari; Eduardo Reveco; Kureusa Hara; Diego Peralta