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SERNAC'S NEW INTERPRETATIVE CIRCULAR ON THE PROCEDURE FOR THE APPROVAL OF COMPLIANCE PLANS UNDER ARTICLE 24, PARAGRAPH 4(C) OF LAW NO. 19.496

On September 30th, 2020, the National Consumer Service (" **SERNAC** ") published the " **Interpretative Circular on the procedure for the approval of Compliance Plans under Article 24, paragraph 4(c) of Law No. 19.496** " (the " **Circular** ") which establishes general guidelines on SERNAC's authority to approve compliance plans submitted by suppliers.

This Circular is part of a public consultation process addressed to consumers, companies and relevant stakeholders. Observations can be submitted in SERNAC's website until October 30th, 2020. After this process, the Circular could be modified.

The content of the Circular focuses on the procedure for approval of compliance plans established by Article 24, paragraph 4(c) of Law No.19,496 Consumer Protection Act (" **CPA** "), based on the following structure: (i) requirements; (ii) procedures for approval; (iii) validity of the plan; (iv) publicity; and (v) treatment of the provided information.

Compliance plan approval requirements

For SERNAC to approve a compliance plan, it must:

1. Comply with the CPA and other applicable legal or administrative regulations. For the evaluation of a plan's content, SERNAC shall consider the "INN/ET1 Technical Specification Compliance plans for the protection of consumer rights - Requirements with guidance for use"; or the one that replaces it.

2. Be accompanied by an affidavit signed by the legal representative(s) of the supplier, stating that the background information provided, and the information contained therein is true and accurate.

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Approval Procedure

A supplier interested in obtaining approval of a compliance plan must apply through a form that will be available for the public download on the institutional website.

The Service will process such request according to one of the procedures: (i) abbreviated procedure or (ii) general procedure, at the supplier's option, depending on the accompanying background.

1.1. Abbreviated Procedure

To access this procedure, the supplier must submit:

a) An authorized copy of the certificate issued by an inspection body or suitable verifying entity, which certifies that the compliance plan complies with the CPA and other regulations.

b) A certification report of the respective plan that includes the documented information that it certifies:

- The realization of the analysis of the context of the organization.
- The organization's commitment.
- The determination of compliance objectives.
- The treatment of non-conformities and non-compliance.
- Conducting the performance evaluation of the compliance plan.
- The realization of the plan improvement process.

The Service will decide on the application for approval within a period of up to six months counted from the day following its entry through the parties' office (Article 27 of Law No. 19,880).

2.2. General procedure

When the supplier requests SERNAC's approval of a compliance plan that does not qualify for processing under the abbreviated procedure, the Service will obtain the technical reports from third parties that allow the analysis of the compliance plan, without directly accessing the suppliers' risk information.

For this purpose, the Service, before entering the application for approval, will submit it to a prioritization procedure, addressing a risk approach and considering the budgetary restrictions in force for the period in which the applications are submitted.

The prioritization will be carried out in the months of March and August each year with the applications received until the last day of the month prior to such months.

Non-prioritized applications will be incorporated into applications received later to be considered, along with those, in the next prioritization process.

Only once the respective technical reports, obtained by the Service, have been evacuated, will the process of approval of the compliance plans begin.

The Service will decide on the application for approval within up to six months from the day following the notification of the supplier of its commencement (Article 27 of Law No. 19,880).

Validity of the approval of a plan

Approval of a compliance plan may be for up to 24 months, as determined by the Service based on the accompanied history, the scope of the plan, and the particular characteristics of the provider.

To renew the term, the supplier must demonstrate effective implementation and monitoring of the plan in the time following approval.

Publicity of approvals

SERNAC shall maintain a list of approved plans available on the institutional website, which shall contain, at least, the identification of the provider, the number and date of the act approving the plan, and the validity of the approval.

At the end of the validity of the approval of a plan, if it has not been renewed, it will be removed from the list.

Treatment of the accompanied information during the approval procedure

SERNAC entrusts the procedure for approval of compliance plans to officials whose coordination depends directly on the National Sub-directorate and who will be independent of the sub-directorates in charge of the protection mechanisms.

The compliance plans, given their nature, contain information on the supplier whose disclosure to third parties may affect its commercial

and economic rights, assumptions recognized as grounds for secrecy or reserve in Articles 20 and 21 of Law No. 20,285 on Access to Information. To this end, the Service must adopt measures to safeguard the information that may affect the supplier's commercial or economic rights, within the respective legal framework.

At the end of the procedure, the provider may request the return of the information by written communication to the Service.

This Circular is already available on SERNAC's website, and can be reviewed at the following link .

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