

September 11, 2020

LEGAL ALERT

SERNAC's New Interpretative Circular regarding the notification of breaches to financial portability regulation

On September 10th, 2020, the National Consumer Service (SERNAC) published the "Interpretative Circular regarding the notification to SERNAC of breaches in the area of financial portability", based on the consumers' new right to financial portability, introduced in Article 3(f) of Law No. 19,496 Consumer Protection Act, through Law No. 21,236 which regulates Financial Portability.

In this regard, recent Regulation set forth by Law No. 21,236 (the "Regulation"), in its Articles 5 and 6, provides that suppliers are obliged to inform SERNAC in case the certificates and vouchers are not sent in the corresponding time periods and forms. Furthermore, the Regulation states that according to the Circular, SERNAC shall determine the manner in which such non-compliance shall be informed.

In compliance with such requirements, SERNAC has issued this Interpretative Circular in order to establish the form and guidelines in which suppliers must electronically notify SERNAC to report non-compliance.

Non-compliance regarding the sending of settlement and/or payment certificates for stamps

In accordance with the Regulation's Articles 5 and 6, in the event that the initial supplier fails to send the certificates of settlement and/or payment of stamps and seals, within the corresponding terms and forms, the requesting supplier must inform SERNAC of such situation **within the first five days of the month **following the month in which the failure took place.

Failure to send general receipt of payment and/or payment for registration

In accordance with Article 43 of the Regulation, if the initial supplier does not submit the general receipt of payment and/or the receipt of payment for the

registration within the corresponding term, the new supplier must inform SERNAC **within the first five days of the month** following the default.

Regarding the notification of non-compliance in the area of financial portability to SERNAC

In order to comply with the requirements described above, the requesting supplier must send an e-mail to SERNAC, to an e-mail box that will be informed to the suppliers by means of an Official Letter, indicating in the subject "Information of non-compliance to the Portability Law", in which the following background must be informed in digital Excel format:

- Name of the requesting supplier;
- Application's entry number for portability as reported by the consumer;
- Indicate type of client ("consumer" or "micro or small business")
- Type of document ("clearance certificate", "stamp tax payment certificate", "general payment receipt" or "initial payment receipt");
- Business name of the initial supplier;
- Initial supplier's tax number;
- Date of request for document from initial provider;
- Date of notification of payment to the initial provider, if applicable
- Means of contact;
- Date of delivery of document by initial provider, if applicable
- Description of non-compliance;
- Date the client was notified of the initial supplier's default.

Validation of technical counterparts and channels

SERNAC will require providers of financial products or services to inform, before September 20th, 2020, the counterparts and e-mail senders authorized by the provider to send the information referred to in this Circular. Any modification of such information must be timely informed to SERNAC.

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

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