

June, 2020

➤ LAW NO. 21,236 ON FINANCIAL PORTABILITY IS PUBLISHED IN THE DIARIO OFICIAL

On June 3, 2020, the President of the Republic enacted the law that governs the financial portability, which was published in the Diario Oficial today, June 9, 2020 (the "Law"), whose main provisions can be summarized as follows:

I. Scope

The Law sets an inalienable right to the financial portability for the "Clients", i.e. all individuals or legal entities that are either considered consumers pursuant to the law 19,496, or micro or small enterprises, pursuant to the law 20,416, and that have any valid financial product or service with a "Provider", term that comprehends to all entities that are supervised by the Financial Market Commission and others referred to in this Law.

II. Financial portability process

- 1. Portability request:** The Client shall file a request before a Provider to whom it intends to transfer its products. The formalities and additional requirements of such request will be contained in the rule.
- 2. Issuance of preliminary certificates:** If the Client has not provided them, the Provider that receives the portability request shall request the initial Provider for it to issue a settlement certificate for early termination purposes, pursuant to article 17 D of the law 19,496 and a stamp tax payment certificate, if applicable as per the kind of financial product or service.
- 3. Portability offer:** If the new Provider accepts the request, it may deliver to the Client an offer, pursuant to the form that will be established by the rule, and which will allow the Client to understand and compare the conditions of the products that would close or terminate, with such other new conditions offered by the offering Provider. This offer shall remain valid by the term set forth therein, which cannot be shorter than 7 banking business days.
- 4. Client's acceptance:** The acceptance of the offer shall be communicated to the new Provider in writing, and shall be deemed that, as from this moment, the Client has granted a mandate to the new Provider, for the later to pay and request termination of the financial products or services maintained with the initial Provider, being entitled to even require the blocking of the available revolving credit lines.
- 5. Conclusion of the process:** The Client and the new Provider shall execute the agreements for the accepted products and services comprised in the portability offer, and in their virtue, the new Provider shall fulfill the termination mandate referred to in prior number. As from this moment, the initial Provider shall be the sole responsible for the definite termination of the products, pursuant to the specific regulations applicable thereto.



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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III. *Financial Portability with subrogation*

The Law sets a special way of loan subrogation, which takes place by the sole operation of law and even against the initial Provider's consent, when the new Provider refinances the loan the Client had with the initial Provider and the other legal requirements are fulfilled. By virtue of this subrogation, the new Provider becomes beneficiary of the existent collateral, which shall be deemed amended for securing the new loan.

If the security documents were registered in a public registry, the subrogation must be recorded therein, only for purposes of publicity and enforceability against third parties.

The Law shall come into force 90 days following to its publication in the Diario Oficial, and its rule shall be enacted within 45 days following to such publication date.