

COMMISSION FOR THE FINANCIAL MARKET ISSUES REGULATION WHICH EXEMPTS CERTAIN PUBLIC OFFERINGS OF SECURITIES OF THE OBLIGATION OF REGISTRATION

In accordance with the provisions of paragraphs 2 and 3 of article 4 of Law No. 18,045 on the Securities Market, the Commission for the Financial Market ("CMF") may establish that certain types of offers of securities do not constitute public offers, in consideration of the number and type of investors to whom they are directed, the means through which they are communicated or materialized and the amount of the securities offered, being empowered to exempt certain public offerings from compliance with any of the requirements of the law, by means of General Rules.

Based on the abovementioned, on February 22, 2021, the CMF issued the General Rule No. 452 ("**NCG 452**"), which provides that **certain public offerings of securities are exempted from the requirement of registration of the issuer or of the security**, as the case may be, regardless of whether said public offerings of securities are carried out in stock exchanges or not. Further, NCG 452 modifies some aspects of the General Rule No. 336 of 2012 ("**NCG 336**") and repeals the General Rule No. 345 ("**NCG 345**").

The objective of the new regulation is to lower the requirements and parameters that currently govern securities offerings that do not require registration with the CMF, in order to make financing for companies more accessible, by reducing the costs that the law imposes on the aforesaid securities offerings, hence configuring an attractive alternative to bank financing.

1. *Public offerings exempted from registration*

NCG 452 exempts the following public offerings from the requirement of registration of the issuer or the security, as the case may be, regardless of whether said offerings are carried out in stock exchanges or not:

1. Offerings whereby the securities may only be purchased by qualified investors;
2. Offerings carried out in national stock exchanges, provided that the total accumulated amount to be raised by the issuer or offeror in the 12 months following the first offer made in a stock exchange does not exceed the equivalent of 100,000 UF (USD 4,135,598), and that the offeror or the issuer complies with the information requirements that the respective stock exchange has established for the protection of investors, in order to make the corresponding offering;



La información contenida en esta alerta fue preparada por Carey y Cía. Ltda. sólo para fines educativos e informativos y no constituye asesoría legal.

Carey y Cía. Ltda.
Isidora Goyenechea 2800, 43rd Floor.
Las Condes, Santiago, Chile.
www.carey.cl

3. Offerings whereby each transaction is perfected only if the investor acquires at least 2% of the capital of the issuer of the securities;
4. Offerings whose sole aim is to compensate employees; and
5. Offerings of securities that grant their acquirors a right of membership, use or enjoyment of facilities or infrastructure of educational, sport or recreational establishments.

II • *Amendments to previous regulation*

NCG 452 amends NCG 336 as follows:

1. Specifies that offers addressed to a maximum of 50 investors who are not qualified investors shall also be included in number iii) of Section I of NCG 336;
2. Lowers from 5,000 UF (USD 206,780) to 3,000 UF (USD 124,068) the unitary value of the instruments referred to in NCG 336 for the offer to be deemed private;
3. Includes an alternative for the verification of the qualified condition of the investors by the offeror, which is the provision of a statement by the investor in which it indicates what type of investor it is and regarding the fact that it is aware that the securities acquired are not registered in the registries kept by the CMF, and therefore (i) the securities may not be publicly offered in Chile; and (ii) in the event that the issuer of the securities is not registered in said registries, the issuer shall neither be subject to the supervision of the CMF nor to the periodic information obligations imposed by the law and regulations on registered issuers; and
4. Recognizes English as a valid language for the communications and materials required by the regulation.

Additionally, **NCG 452 repeals General Rule No. 345 of 2013**, through which the CMF exempted certain public offerings from the registration requirement, pursuant to the provisions of paragraphs 2 and 3 of article 4 of Law No. 18,045 on the Securities Market.

III. Information Obligations

To the Public:

NCG 452 establishes that those who carry out of this type of securities offerings **must state in the verbal, physical or electronic communication used to offer the corresponding securities, that the securities offered are not registered in the registers kept by the CMF** and, therefore, that (i) the securities may not be publicly offered in Chile, and (ii) the issuer, if not registered in such registries, will not be subject to the supervision of the CMF or the information obligations established by the law and regulations of the CMF

To the CMF

Section IV of NCG 452 sets out the information that, **5 business days in advance to the day on which the offer is intended to be made**, the offerors must send to the CMF, namely: (i) Identification of the offeror; (ii) identification of the issuer of the securities; (iii) identification of the entity for which the workers perform functions, in the case of the compensation plans referred to in No. 4 of Section I of NCG 452; (iv) type of offer which is intended to be made; (v) the total amount that is intended to be placed in the recipients of the offer; and (vi) percentage of the issuer's capital, in case of the offer described in No. 4 of Section I of NCG 452, among others.

Furthermore, the offeror must attach a **truthfulness statement** regarding the communication and of the fact that it will comply with the instructions of NCG 452.

For further information, please visit:

NCG 336 of 2012 (as amended)

NCG 345 of 2013 (repealed)

NCG 452 of 2021

CMF's report for the issuance of NCG 452