

COMMISSION FOR THE FINANCIAL MARKET PROHIBITS THE USE OF 39 GENERAL CONDITIONS AND CERTAIN ADDITIONAL CLAUSES RELATED TO INSURANCE COVERAGE OF FRAUD RISKS IN THE USE OF CARDS AND ELECTRONIC TRANSFERS

Pursuant to Resolution No. 3715 dated August 21, 2020, the Chilean Commission for the Financial Market ("CFM") prohibited 39 general conditions and also certain additional clauses (listed in Exhibits No. 1, 2 and 3 of such resolution), incorporated in the Insurance Policy Deposit (Deposito de Pólizas) that carries the Commission and that correspond to coverage for risks of fraud in the misuse of credit or debit cards and electronic transfers which, according to Law No. 21,234 dated May 29, 2020, must be assumed by the issuer or provider of the financial service of electronic payments. This law established that financial institutions are prevented from offering insurance to cover the misuse of cards in cases of theft, robbery or loss, or fraud in electronic transactions.

This will imply that the insurance companies will not be able to use those models of general conditions and additional clauses prohibited.

Furthermore, in a news release issued on the same date, the CFM pointed out that:

1. With respect to the insurance commercialized before the effectiveness of Law No. 21,234 that included these coverages, as provided in the Chilean Commercial Code, the risks covered by them have been extinguished or diminished. The foregoing will imply (i) the termination of the insurance policies -in case they only considered the coverage that corresponds to the card issuer-, or (ii) the reduction of the premium charged, in those cases in which the insurance policy also included other risks different from those that Law N° 21,234 establishes in the issuer (e.g., cases of theft at the exit of automatic cash machines or the misuse of checks); and
2. Issuers, brokers and insurance companies have been instructed to clearly inform the insureds, through personalized communication, about the situation described above and about the right they have to terminate such contracts as well if they deem it convenient.

For further information, please consult the following [link](#).



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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