



CMF publishes for consultation regulation on requirements to be met by fees charged on credit operations

- *This is pursuant to Law No. 21,314, which establishes new transparency requirements and strengthens responsibilities for market agents*
- *Distinguishing between fees and interest is particularly relevant considering the legal limit for charging interest, known as the Maximum Conventional Rate.*

April 8, 2022 — The Financial Market Commission (CMF) has published for consultation a second regulatory proposal on requirements to be met by fees charged on credit operations governed by Law No. 18,010. This is pursuant to Law No. 21,314, which establishes new transparency requirements and strengthens responsibilities for market agents. Law No. 21,314 amended Law No. 18,010 — which regulates credit operations and other money obligations indicated therein — by adding a new Article 19 Ter, among other changes.

Said article states that the CMF, through a General Rule, shall establish the requirements applicable to fees charged in a money lending operation so they are not considered interest. Any amount the creditor receives or has the right to receive on the principal of a credit operation must be considered interest. This is particularly relevant in the Chilean legal system since there is a legal limit for charging interest, known as the Maximum Conventional Rate.

The regulation aims to determine the requirements to be met by fees charged on credit operations; to establish the effective date of the new provisions; and to define the terms and conditions under which institutions must report contractual modifications arising from the new law.

Contents of the Proposal

To clarify its definition and scope, the second regulatory proposal defines how an amount charged in a money lending operation is considered a fee. As a result, charges meeting the following rules and conditions shall be considered fees:

- The concept to which the payment corresponds, as well as its total amount for the debtor, has been expressly informed and accepted by the debtor prior to its collection and the rendering of the service.

- In no case shall the amount be higher than the cost of providing the service, without prejudice to current rules and regulations, such as Articles 10 (on prepayment) and 19 Bis of Law No. 18,010 or amounts for extrajudicial collection in accordance with Article 37 of Law No. 19,496.
- The service is real, has been effectively rendered to the debtor, and differs from those performed to materialize or terminate the money lending operation.
 - Accordingly, the following examples are expressly considered not to be real services: cash advances; transfers; issuance of on-demand vouchers; ATM withdrawals or other services incurred for the delivery of credit; rescheduling, refinancing or portability processes; solvency or risk evaluations; issuance of certificates; or any services the creditor is obliged to provide in compliance with legal and regulatory requirements.
- The service is not for the exclusive benefit of the creditor.
- Information on the costs of services that generate fees is to be made available to the public through the same channels used by creditors to make offers of money lending operations or their contracting.

The proposed regulation specifically addresses credit operations originated using credit lines linked to credit cards or checking accounts and states the same fee requirements apply to them. Regarding these operations, their administration or maintenance is considered a real service, and the fees for such concepts must be fixed, periodic, and not dependent on the amount used or authorized. Charges that do not comply with the requirements contained in the regulation will be deemed interest for the calculation of the Maximum Conventional Rate.

This second proposal sets a 12-month timeframe for the regulation to become effective, as well as six months to send a notice on contractual changes arising from the new regulation.

Interested parties can access the [Draft Rules and Norms section](#) of the CMF website until April 22, 2022 to check the details of the regulatory proposal and submit their feedback. In addition, the CMF makes available a [Presentation](#), an [Informative Brochure](#), and a [Frequently Asked Questions document](#) with its key elements.

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