



## CMF issues 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.*

**August 8, 2022** — The Financial Market Commission (CMF) issued today **General Rule No. 484**, which sets the 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, as well as regulating pension advisory services and other operations indicated therein.

By issuing this new regulation, the CMF materializes the main amendments related to the implementation of Law No. 21,314. This regulatory process began in May 2021 and includes, among others:

- Establishing the figure of anonymous whistleblower.
- Regulating the process of enrollment in the registry of investment advisors.
- Regulating pension financial advisory services alongside the Superintendence of Pensions.
- Regulating the interconnection of stock exchanges.

### Fees

Law No. 21,314 amended Law No. 18,010, which regulates credit operations and other money obligations indicated therein. Article 19 Ter 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.

General Rule No. 484 establishes the enforcement date of these new provisions and defines terms and conditions under which institutions must propose contractual amendments arising from the new Law, particularly pertaining to contracts on credit lines linked to credit cards or checking accounts that were subscribed before the regulation became effective.

## **Contents of the Regulation**

The new regulation 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:

- Charges made to debtors are calculated based on the cost of providing the service.
- The service is real, has been effectively rendered to the debtor, and differs from those inherent to money lending operations. The following are defined as inherent services:
  - Any procedures to start, underwrite, materialize, or terminate the money lending operation.
  - Services creditors must provide to debtors in compliance with legal and regulatory requirements applicable to credit operations. On the other hand, any services creditors cannot provide directly by laws or regulations shall not be considered inherent to the credit operation.
- The concepts to which payments correspond, as well as their total amount for debtors, have been expressly informed and accepted by debtors prior to their collection and the rendering of services.
- 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.

Services provided by third parties to fulfill solemnities required by law to execute a credit operation, or for the constitution, performance or release of its guarantees or sureties, shall not be considered inherent to the operation itself.

## **Credit Lines**

General Rule No. 484 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 not considered a real service, so any charges for such concepts are considered fees unless they are unrelated to the amount of a money lending operation or other product/service.

Supervised entities must adopt the necessary safeguards to accredit compliance with the requirements of the new regulation.

## **Contractual Amendments**

Financial institutions that must amend credit line contracts signed prior to the entry into force of the regulation shall send their clients an annex detailing the proposed modifications and their justifications free of charge. This is so that they may be accepted or rejected by their clients before the entry into force of the regulation. The above must consider a period of at least 20 working days for the client to express its opinion regarding the proposed modifications. This is to ensure clients accept or reject them before General Rule No. 484 becomes effective. Clients will have 20 business days to express their opinion on contractual amendments.

Should clients reject such amendments, the institution may terminate the correspondent contract and must respect payment terms originally agreed upon. It is worth noting that this is more likely to occur in the case of contracts for lines whose charges do not comply with the regulations, and in which the interest rate is close to the limit established by the Maximum Conventional Rate. Failure to adjust them would result in interest charges higher than the limits set by law.

## **Validity**

General Rule No. 484 will become effective as of August 1, 2023. Financial institutions have until that date to amend all contracts that must undergo modifications because of the enactment of the new regulation. From that date, all charges that do not comply with the rules, requirements and conditions established in the General Rule will be considered interest and, therefore, limited by the Maximum Conventional Rate.

Interested parties can access the [Rules and Norms section](#) of the CMF website to check the details of the new regulation. In addition, the Commission makes available a [Presentation](#), [Informative Brochure](#) and [Frequently Asked Questions document](#) with its key elements.

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