

## CMF reports criteria under which the dissemination of content on social media is considered investment advice

- *The regulation issued by CMF supporting the Fintech Act aims to promote financial inclusion, develop and deepen the Chilean capital market, and safeguard the minimum standards of conduct required of players participating in this industry.*
- *Therefore, the Commission has just updated the FAQ document included with the issuance of General Rule 502, which details obligations to be met by financial service providers as defined in the Fintech Act and clarify the regulatory framework for investment advisors.*

**July 5, 2024** — The Financial Market Commission (CMF) updated its FAQ document regarding General Rule No. 502 on enrollment, authorization, and obligations to be met by providers of financial services pursuant to the Fintech Act. Nearly six months after the issuance of General Rule No. 502, this update is intended to complement information and clarify doubts regarding instructions and requirements defined for financial service providers referred to in Title II of the Fintech Act. These include crowdfunding platforms; alternative transaction systems; credit advice; investment advice; custody of financial instruments; routing of orders; and intermediation of financial instruments.

Among the main elements incorporated in the updated Q&A document, which arose from feedback received in the process of implementing General Rule No. 502, are the guidelines under which the creation and dissemination of financial and/or investment content through media and/or social media constitutes investment advice under the terms set forth in the Act.

### Investment Advisory Services through social networks or the media

According to Article 3 of the Fintech Act, Investment Advisory consists of the provision of services of evaluations or recommendations to third parties regarding the convenience of making certain investments or operations in publicly offered securities, financial instruments, or investment projects. The document states that persons who, using media and/or social media, are engaged in the creation and dissemination of financial and investment content aimed at a specific and determined group or the public as a whole, will be included within the regulatory perimeter of the Fintech Act when two conditions are verified:

- 1. The message has the capacity and/or purpose of influencing audience behavior regarding the convenience or not of making a certain investment or operation in financial instruments, publicly offered securities, or investment projects.**

The above applies whether the content is specific or of a general nature, and whether its dissemination is aimed at a specific or indeterminate group of people. The document contains some examples of this, so an investment advisory service shall be deemed to be provided by a person who:

1. Makes recommendations or evaluations on the advisability of investing in publicly offered securities, financial instruments, or investment projects. Makes investment recommendations or evaluations on a specific market (technology, natural resources,

infrastructure, crypto assets, etc.) and the convenience of investing or not in these instruments.

2. Makes comparative personal and/or subjective assessments regarding advantages and/or disadvantages of investing in certain publicly offered securities, financial instruments, or investment projects in relation to others.
3. Disseminate own or third-party information regarding the results of investment operations and/or portfolio composition, as well as disclose specific investment operations to be carried out in the near future. All this applies to publicly offered securities, financial instruments or investment projects.
4. Makes and disseminates general or specific projections of profitability of certain publicly offered securities, financial instruments, or investment projects.
5. Promotes the use of referral programs and/or offer discounts that constitute an invitation or incentive to carry out investment operations on publicly offered securities, financial instruments, or investment projects.

**2. The communication is carried out regularly, i.e., when such messages are provided with professional dedication and sustained over time. Examples include the administration, production, publication and dissemination of content within a social media profile; through a podcast or audiovisual channel; and which is, mainly but not exclusively, dedicated to making recommendations or investment advice in the terms already mentioned.**

Said criteria apply even when the person disseminating content do not identify themselves as investment advisors, or expressly states that they do not engage in such activity.

#### **Financial education through social networks or media.**

The document specifies that **investment advice does not include communication of a merely informative or educational nature**. This is understood as presenting objective and neutral information, whose purpose is only to inform regarding specific and verifiable facts and/or provide conceptual content on financial matters, without identifying an intention to influence the audience regarding the advisability of making a particular investment or operation on publicly offered securities, financial instruments, or investment projects, in the terms set forth in the Act.

For further details on the matters addressed, the updated Q&A document of General Rule No. 502 is available for consultation on the website of the Financial Market Commission.

#### **Purpose of the new regulatory framework for Investment Advisors**

The purpose of the regulation supporting the Fintech Act, which establishes requirements to be met by different actors operating in the system (including Investment Advisors), is to generate a framework that both promotes financial inclusion, development and depth of the Chilean financial market; and safeguards minimum standards of compliance with market conduct, transparency, and information to investors.

The Commission has always emphasized that investors always look for more information about products, persons and companies they are considering investing with by taking the following actions:

- Check the CMF website to confirm whether the relevant company is registered in Chile, and which parties are responsible for its management.
- Use popular Internet search engines to identify any complaints or negative feedback about the company through its name, its directors, and the products being considered for investment.

The CMF also reminds the public about the [special alerts page](#) for investors, policyholders, and banking customers available on its website. Interested parties can verify here whether an entity or person offering financial products or services is supervised by the CMF; check alerts issued by the CMF and other foreign regulators on unregulated entities or activities; and other important advice for the protection of investors, policyholders, and financial clients.

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## **Area of Communications, Education & Image — Financial Market Commission (CMF)**

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