

➤ CMF will publish the maximum interest rate for operations expressed and payable in foreign currency

On November 30, 2023, the Financial Market Commission ("**FMC**") issued Exempt Resolution No. 9077 (the "**Resolution**") which agreed to modify the category of transactions "expressed" in foreign currency, to also include those "in" foreign currency, which will be renamed as "transactions in foreign currency and expressed in foreign currency". The foregoing for purposes of determining the common interest rate ("**CIR**") and the maximum interest rate ("**MIR**") for both types of transactions.

In practice, to date, the FMC only determined the CIR and, therefore, the MIR, for transactions expressed in foreign currency but payable in Chilean pesos. In view of the above, operations in foreign currency (i.e., those expressed and payable in a foreign currency) did not have a common interest rate or a maximum interest rate associated with them.

As a consequence of a Supreme Court resolution dated September 25, 2023, and in order to avoid controversies in the financial markets, the FMC decided to adjust the category of interest rates referred to transactions "expressed in" foreign currency that it periodically publishes, to include those transactions "in" foreign currency. Thus, the Resolution orders that, as from the next publication of the CIR and the MIR by the FMC, the category of money lending transactions "expressed in" foreign currency will be renamed "transactions in foreign currency and expressed in foreign currency", and both said new category and the category of transactions "expressed in" foreign currency will be subject to the MIR limit established in Law No. 18,010, and the violation of said limit will entail the penalties established in said law and other applicable regulatory bodies.

It should be noted that, notwithstanding the provisions of the Resolution, the money lending transactions indicated in Article 5 of Law No. 18,010, among others, those that are agreed with a foreign or international banking or financial institution or company or those in which the borrower is a banking or financial entity, will continue to be exempt from the MIR limit, with the contractual freedom governing them as regards the interest rate.

AUTHORS: Diego Peralta, Felipe Moro, Fernando Noriega, Felipe Reyes.

This news alert is provided by Carey y Cía. Ltda. for educational and informational purposes only and is not intended and should not be construed as legal advice.

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