

CMF publishes for consultation regulation on operational capacity of Fintech services providers

On December 15, 2023, the Financial Market Commission (“**CMF**”) published for public consultation a regulatory proposal that will complement the proposed implementation regulation (the “**Original Proposal**”) of Law No. 21,521 (“**Fintech Law**”).

The Original Proposal (which’s public consultation process ended on November 10, 2023) did not establish necessary regulation related to the operational capacity accreditation requirements of the following Fintech services:

- 1 Alternative transaction system services;
- 2 Intermediation of financial instruments;
- 3 Order routing and
- 4 Custody of financial instruments.

The aforementioned accreditation is one of the requirements established by the Original Proposal in order to request authorization from the CMF to provide any of these services.

The new regulatory proposal establishes that to demonstrate operational capacity, the applicant must ensure that their systems and infrastructure will be able to process the operations or transactions projected once they are authorized to operate by the CMF as well as the transactions estimated for the next 3 years. For these purposes, the following must be attached to the application:

- 1 A description the estimates of the current and future capacity of the systems and infrastructure by type of service. This must indicate the maximum capacity of operations or transactions per time unit and must include the results of the performance and stress tests carried out to verify this capacity.
- 2 In the case of entities classified in Block 2 and 3 (as described below), a specialized third party certification in accordance with commonly accepted international standards.

Additionally, it is important to note that the CMF has made public that the criteria to determine the size of the entities indicated in the Original Proposal (which affect the regulatory requirements that each provider must comply with) will be modified to the following:

- 1 **Block 1:** entities that have less than 500 active clients, and do not meet any of the business volume metrics of Block 2 or 3 entities.
- 2 **Block 2:** entities that meet any of the following conditions:
 - a Have between 500 and 5,000 active clients.
 - b Average daily transactions in the last 3 months (moving average) between UF 100,000 and UF 500,000.
 - c Average daily custodied assets in the last three months (moving average) between UF 20,000 and UF 100,000.
 - d Income in the last 12 months (moving average) between UF 25,000 and UF 50,000.

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3 Block 3: entities that meet any of the following conditions:

- a** More than 5,000 active clients.
- b** More than UF 500,000 in average daily transactions in the last three months (moving average).
- c** Average daily custodied assets in the last three months (moving average) over UF 100,000.
- d** Income in the last 12 months (moving average) over UF 50,000.

The CMF will receive comments on the new regulatory proposal until December 29, 2023. It is available in the [Regulatory Consultation](#) section of the CMF's institutional website.

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