

> Central Bank of Chile Updates Payment Card Regulations

On July 2, 2024, the Central Bank of Chile ("**BCCh**") amended Chapters III.J.1, III.J.1.1, III.J.1.3, and III.J.2 of the Compendium of Financial Regulations (the "**Compendium**") governing the issuance and operation of payment cards. These modifications aim to reformulate the regulations applicable to Payment Processing Service Providers ("**PSP**") and include two new business models that previously lacked regulation.

The main modifications to the regulatory framework for payment cards are as follows:

I. **Recognition of closed payment systems (on us)**

Payment Card Issuers with Fund Provision will be able to implement payment schemes that allow fund transfers between cardholders of a card issued by the same Issuer. These operations will be carried out through debits and credits in the respective fund provision accounts.

Furthermore, entities developing this business model must establish interconnection mechanisms with other entities to avoid fragmentation of the payment system.

II. **Creation of a new category of "Sub-Acquirer Operators"**

Additionally, the BCCh lowered the threshold for PSPs that settle and/or make payments for services owed to affiliated entities to be exempt from the obligation to become Payment Card Operators ("**Operators**"). In this regard, PSPs providing sub-acquiring services will not be subject to licensing requirements as long as they record transactions below 50% of the "Sub-Acquirer Operation Threshold." This means that the amount of settlements and/or payments made in the last 12 months must be less than 0.5% of the total payments to affiliated entities made by all Operators under Chapter III.J.2 of the Compendium (market-settled operations).

PSPs providing sub-acquiring services that exceed 50% of the aforementioned threshold must become Operators under the "Sub-Acquirer Operators" category, subject to applicable requirements, and must request their registration in the Operators Registry managed by the Financial Market Commission ("**CMF**").

In this respect, it is important to highlight that the payment responsibility will fall on the Operator or the Issuer that is contractually linked to a PSP or a Sub-Acquirer Operator, provided the latter is below the 1% threshold established in the "Sub-Acquirer Operation Threshold." Conversely, if the contractual link is with a Sub-Acquirer Operator that exceeded the 1% threshold and meets all associated requirements, either of the two intervening Operators may assume the payment responsibility towards the affiliated merchants.

III. **Regulation of Cross-Border Acquiring**

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

The modification adds a new Title VIII to Chapter III.J2. of the Compendium, regulating "cross-border acquiring." Thus, Operators can affiliate and assume payment commitments with one or more merchants not domiciled or resident in Chile (foreign affiliated entities), settling payments corresponding to transactions made with payment cards issued in Chile outside the country, complying with the requirements stated by the regulation.

In this context, it is important to note that Operators conducting cross-border acquiring must adhere to the regulations set in the jurisdiction of the foreign affiliated entity, and affiliation is not allowed if this type of acquiring is prohibited in that country. Additionally, they can only process electronic transactions made with cards issued in Chile from within the country.

Moreover, for an Operator or Sub-Acquirer Operator to engage in this activity, they must submit a prior and special application to the CMF, providing the necessary documentation and meeting the requirements indicated by the regulation. Thus, entities conducting cross-border acquiring must be registered in the CMF's Operators Registry, regardless of their transaction volume.

IV ■ *Possibility for Bank Subsidiaries or Savings and Credit Cooperatives to Become Payment Card Operators*

The new regulation explicitly incorporates the possibility for bank subsidiaries or savings and credit cooperatives to become Operators, as authorized by the CMF.

V ■ *Aspects Related to the Prevention of Money Laundering and Terrorism Financing*

Operators are required to identify the affiliated entity receiving or benefiting from the funds they settle and the country where it is domiciled.

Additionally, like Operators, Payment Card Issuers contracting with PSPs for the provision of services that include settlement and/or payment to affiliated entities can require these entities to demonstrate compliance with adequate KYC standards and the prevention of money laundering and terrorism financing, considering the industry's best practices. These requirements must be objective, general, and non-discriminatory.

Finally, the modified Chapter III.J.2 includes transitional provisions for a gradual implementation period for PSPs exceeding the Sub-Acquirer Operation Threshold or engaging in cross-border acquiring. This implementation period considers:

- 1 A period of 60 calendar days from the date of BCCh Agreement No. 2650-01-240627 (the "**Agreement**") to submit the application for registration in the CMF's Operators Registry, considering the specific requirements established in these transitional provisions.
- 2 A maximum period of 18 months for registration in the CMF's Operators Registry from the date of the mentioned Agreement, subject to the administrative instructions issued by the organization. This period could be extended for up to an additional 6 months, as determined by the CMF upon a justified request from the interested entity.

AUTHORS: *Diego Peralta, José Luis Enberg.*