

› Ruling of the Financial Market Commission on Risk Rating Agencies: Certification and Supervision of Crime Prevention Models

Prior to the entry into force of Law No. 21,595 on Economic Crimes, the legislation allowed external auditing firms, risk rating agencies, or other entities registered with the Financial Market Commission (“CMF”) to certify the effective implementation of a Crime Prevention Model (“CPM”) by a legal entity.

However, with the enactment of the aforementioned Law and the amendments introduced to Law No. 20,393 on the Criminal Liability of Legal Entities, the reference to the Registry of Crime Prevention Model Certification Entities was eliminated. In fact, the new Article 4 of Law No. 20,393 establishes, among the requirements to consider a CPM effectively implemented, the “provision of periodic evaluations by independent third parties and mechanisms for improvement or updating based on such evaluations.”

Based on the analysis of this legislative amendment, the CMF issued Ruling No. 31,445 dated February 7, 2025, which highlights the following points:

- 1 Through General Norms (“GN”) No. 302 and No. 362, the CMF had defined the requirements for being part of the Registry of Crime Prevention Model Certification Entities.
- 2 Law No. 21,595 tacitly repealed GN No. 302, and with it, the CMF’s authority to supervise or oversee such entities.
- 3 According to the Securities Market Law, risk rating agencies are exclusive-purpose entities, which means they may only carry out public securities rating and the complementary activities explicitly authorized by GN No. 362.
- 4 Since the certification of crime prevention models does not qualify as a complementary activity and is not explicitly permitted under current law, the CMF concludes that these entities may no longer engage in certification.

Therefore, and fundamentally, **the CMF's interpretation confirms that Law No. 21,595 rendered ineffective all previous rules and regulations related to the certification of CPMs. As a result, for the evaluation required by the law, any third party that can be considered independent and that has the necessary skills and experience to properly perform such evaluations may be engaged.**

AUTHORS: Guillermo Acuña, Rebeca Silva, María Gracia Middleton.

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