



## CMF publishes for consultation regulation on requirements to be met by fees charged on credit operations

- *This is pursuant to Law No. 21,314, which establishes new transparency requirements and strengthens responsibilities for market agents*
- *Distinguishing between fees and interest is particularly relevant considering the legal limit for charging interest, known as the Maximum Conventional Rate.*

**May 27, 2022** — The Financial Market Commission (CMF) has published for consultation a third regulatory proposal on requirements to be met by fees charged on credit operations governed by Law No. 18,010. This is pursuant to Law No. 21,314, which establishes new transparency requirements and strengthens responsibilities for market agents. Law No. 21,314 amended Law No. 18,010 — which regulates credit operations and other money obligations indicated therein — by adding a new Article 19 Ter, among other changes.

Said article states that the CMF, through a General Rule, **shall establish the requirements applicable to fees charged in a money lending operation so they are not considered interest.** Any amount the creditor receives or has the right to receive on the principal of a credit operation must be considered interest. This is particularly relevant in the Chilean legal system since there is a legal limit for charging interest, known as the Maximum Conventional Rate.

The regulation aims to determine the requirements to be met by fees charged on credit operations; to establish the effective date of the new provisions; and to define the terms and conditions under which institutions must report contractual modifications arising from the new law, especially pertaining to contracts on credit lines linked to credit cards or checking accounts.

### Content of the Proposal

To clarify its definition and scope, the second regulatory proposal defines how an amount charged in a money lending operation is considered a fee. As a result, charges meeting the following rules and conditions shall be considered fees:

- Charges made to debtors are calculated based on the cost of providing the service.

- The service is real, has been effectively rendered to the debtor, and differs from those inherent to money lending operations. The proposal defines the following as inherent services:
  - Any procedures to start, underwrite, materialize, or terminate the money lending operation.
  - Services creditors must provide to debtors in compliance with legal and regulatory requirements applicable to credit operations. On the other hand, any services creditors cannot provide directly by laws or regulations shall not be considered inherent to the credit operation.
- The concepts to which payments correspond, as well as their total amount for debtors, have been expressly informed and accepted by debtors prior to their collection and the rendering of services.
- Information on the costs of services that generate fees is to be made available to the public through the same channels used by creditors to make offers of money lending operations or their contracting.

The proposal states that for the purposes of Article 2 of Law No. 18,010, which defines interest, payments shall be considered received by creditors in the following cases.

- If the service is provided directly by the creditor or by a company of its business group.
- If the service is inherent to the money credit operation, even when provided by third parties.

The proposed regulation specifically addresses credit operations originated using credit lines linked to credit cards or checking accounts and states the same fee requirements apply to them. Regarding these operations, their administration or maintenance isn't considered a real service, so any charges for such concepts are considered fees unless they are unrelated to the amount of a money lending operation.

Interested parties can access the [Draft Rules and Norms section](#) of the CMF website until June 17, 2022 to check the details of the [regulatory proposal](#) and submit their feedback. In addition, the CMF makes available a [Presentation](#), an [Informative Brochure](#), and a [Frequently Asked Questions document](#) with its key elements.

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