

**Press  
RELEASE**



## **The CMF approves Policy on Collaboration of the Alleged Infringer in sanctioning procedures**

**June 29<sup>th</sup>, 2018.** –In the context of the modifications in sanctioning procedures matters and new tools granted to the Financial Market Commission (CMF) to enhance its capacity to detect and prosecute offenses, its Council approved in a session held yesterday, the “Policy on Collaboration of the Alleged Infringer” for the administrative sanctioning procedures to be carried out by the Commission Investigation Unit.

The international experience shows that procedures of voluntary disclosure or compensated collaboration are an effective tool in the prosecution of behaviors and infringements difficult to detect, through establishing incentives for those who hand in relevant information regarding behaviors that compromise public faith and the laws/norms which the Commission monitors and which allow to determine the responsible.

It should be remembered that the law that created the CMF provides for the separation of functions within the sanctioning procedures of the Commission, assigning to the Investigation Unit, under the responsibility of the Prosecutor, the role of carrying out the investigations and pressing charges for facts liable to administrative infringements, while the power to resolve these processes and determine the application of sanctions is the exclusive responsibility of the Council of the Financial Market Commission.

This separation of functions seeks to maximize the principles of due process in the exercise of the oversight and sanctioning powers of the CMF and guarantee the impartiality of the Council in the resolution of the administrative sanctioning procedures.

Furthermore, the Law granted new intrusive tools to the Investigation Unit such as access to the information subject to bank secrecy, the interception of all kinds of telecommunications and the use of compensated collaboration as a procedure that encourages the handing in of background information that helps to identify offenses in the markets that the CMF oversees.

**Benefits of collaboration of the alleged infringer:**

The Policy on the Collaboration of the Presumed Infringer regulates in detail the procedure that the Investigation Unit will grant to the application submitted to take up procedures of voluntary disclosure or compensated collaboration, in order to grant legal certainty to the person applying for these benefits regarding the treatment and confidentiality of their request.

Benefits of compensated collaboration are detailed below:

- I. Benefit of **reductions of up to 80% of the pecuniary sanction**, for those who incur in a conduct punishable by the CMF.
- II. When the behavior to be sanctioned involves two or more persons, **the first person to provide background information to the CMF: (i) may access a reduction of up to 100% of the applicable fine;** (ii) the sanction applied in the case that the conduct is also typified as a crime will be lowered in one or two degrees to the established by the law; or, exceptionally, the extinction of criminal liability in case the background information handed in reveals a conduct penalized as an offense in certain articles of the Securities Market Law.
- III. Benefit of **reductions of up to 30% of the pecuniary sanction**, when the conduct punishable involves two or more persons, and it is not the

first person to provide background information to the CMF, the applicant may gain access to a reduction of up to 30% of the applicable fine.

### **Procedure to request benefits**

In order to obtain the aforementioned benefits, the natural or legal persons must provide the CMF with accurate, truthful and timely background information that represents an effective contribution to the constitution of sufficient evidence to establish a future pressing of charges.

The information provided by an applicant for the benefit of the compensated collaboration will be received by an employee from the CMF Investigation Unit called "**Responsible for Collaboration**", who will have direct communication with the persons concerned.

Any person, acting on behalf of a person concerned in obtaining any of the benefits, may make enquiries to the person in charge of collaboration, without the need to identify the person concerned ("**Preliminary Enquiry**").

For these purposes, you can contact the Responsible for Collaboration at the following phone number: +56226174516 or email: [encargado.colaboracion@cmfchile.cl](mailto:encargado.colaboracion@cmfchile.cl)

To set up a Preliminary Enquiry, a description of the financial market field where an offense has taken place is required without the need to specify the constitutive facts of the conduct. Whoever sets up the Preliminary Enquiry will be responsible for the accuracy and the veracity of the said description and the CMF Responsible for Collaboration will not be responsible nor will the CMF of any misunderstanding which can arise concerning the description.

Once the background information provided by the interested party has been checked, the Responsible for Collaboration will deliver it to the Investigation Unit Prosecutor, who in turn will be responsible for deciding whether or not to recommend the Council of the Financial Market Commission to grant the benefit

of compensated collaboration. Finally, the Council will approve or reject the benefit request.

### **Relationship between the CMF units and the Investigation Unit**

As well as the foregoing, the CMF approved through Internal Resolution N° 2501 an Internal Policy that establishes the basis for interaction and adequate coordination between the Council, Intendancies and Areas that integrating the CMF with the Investigation Unit in investigations or administrative procedures.

The Policy tackles the general principles that should guide the relationship between the Council and the Investigation Unit, the stages within which that unit carries out its work, and the communications it will maintain with the Council, especially the reports that the Prosecutor must submit and the requests that must be resolved by the Council, and other communications provided for in the Law that creates the CMF and in the Internal Regulation for the Operation of the Council.

In this way, the separation of investigation and sanctioning functions is strengthened to guarantee the due process and impartiality of the Council of the Financial Market Commission.

**To get to know in depth the Policy on Collaboration of the Presumed Infringer download the following link:**

**[http://www.cmfchile.cl/sitio/aplic/serdoc/ver\\_sgd.php?s567=bb4eb2ce0939cd69a9cbd0f9f897eb5cVFdwQmVFOUVRVEpOUkVWNFRYcG5IVTICUFQwPQ==&secuencia=-1&t=1530303875](http://www.cmfchile.cl/sitio/aplic/serdoc/ver_sgd.php?s567=bb4eb2ce0939cd69a9cbd0f9f897eb5cVFdwQmVFOUVRVEpOUkVWNFRYcG5IVTICUFQwPQ==&secuencia=-1&t=1530303875)**

**Relationship Policy between the Investigation Unit and the CMF:**

**[http://www.cmfchile.cl/sitio/aplic/serdoc/ver\\_sgd.php?s567=49610fb75371359e1537f8aa20f85edeVFdwQmVFOUVRVEpOUkVWNFRVUmpNVTFSUFQwPQ==&secuencia=-1&t=1530303351](http://www.cmfchile.cl/sitio/aplic/serdoc/ver_sgd.php?s567=49610fb75371359e1537f8aa20f85edeVFdwQmVFOUVRVEpOUkVWNFRVUmpNVTFSUFQwPQ==&secuencia=-1&t=1530303351)**

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