



PRESS RELEASE

CMF publishes for consultation regulation establishing parameters and procedures to qualify as an anonymous whistleblower

- *This is pursuant to Law No. 21.314 on Transparency and Accountability of Market Agents.*

May 3, 2021 – The Financial Market Commission (CMF) has published for consultation a regulation establishing the parameters and procedures to qualify as an anonymous whistleblower. This is pursuant to [Law No. 21,314 on Transparency and Accountability of Market Agents](#). According to said law, parties who provide background information to detect, verify, or accredit violations falling within the Commission's scope of competence may receive such qualification through a well-founded resolution by the CMF.

The regulation under public consultation sets the parameters to determine the substantial, accurate, truthful, verifiable, and unknown nature of background information submitted by complainants who opt for such qualification according to the requirements set by Law No. 21,314. The anonymity of whistleblowers and their right to earn a reward in exchange for cooperating in investigations are guaranteed.

Regulatory Proposal

Interested parties who voluntarily and expressly state their intention to qualify as anonymous whistleblowers must submit a request online through the form provided on the Commission's website. The regulatory proposal states that such status may be granted to whoever cooperates with an investigation by providing relevant information fulfilling the following terms:

- **Substantial.** Information related to the conduct in question and which, due to its content and nature, would allow to prove irregular actions by alleged infringers with a reasonable degree of certainty.
- **Precise.** Background information must refer to concrete, specific facts allowing to determine an infringement and who might be responsible for it.
- **Truthful.** Background information must be real, not mere speculation. Whistleblowers must keep in mind the provisions of Article 82 of Legislative

Decree No. 3538; its third paragraph refers to sanctions for providing false or fraudulent information.

- **Verifiable.** Background information must refer to facts that can be corroborated by any means of evidence. It doesn't matter if the evidence is provided by the party making a formal submission or obtained by the Prosecutor of the CMF's Investigation Unit. Evidence or data obtained through unconstitutional or illegal means shall not be considered verifiable.
- **Unknown.** Information provided by applicants must be unknown to the Commission at the time their requests are submitted. Information that merely replicates public sources like media or any other obtained/maintained/provided by a civil servant on duty, whether at the Commission or any other government agency, shall not be considered unknown.
- **Cooperation with an Investigation.** For the whistleblower's assistance to be included in a possible investigation, the information provided must refer to violations that will probably trigger an investigation and subsequent sanctioning process by the Commission due to their relevance, seriousness, or involved entities. This is pursuant to the policies and powers set forth in Article 23 and 24 of Decree Law No. 3,538. Complaints dealing with infractions that have lapsed, whose sanctioning authority has expired, or which are unlikely to result in an investigation process due to the CMF's supervising and sanctioning policies, shall not count as cooperation.

Rewards

The percentage of applied fines that anonymous whistleblowers are eligible to receive shall be defined by the Board of the Financial Market Commission in the respective sanctioning resolution. The following factors shall be considered for such a purpose:

- **Relevance.** Considers the completeness of background information submitted to detect, establish, or prove infringements of the Commission's regulatory framework within its scope of competence.
- **Opportunity.** Considers whether the background information was timely submitted to the Commission's Investigation Unit to start, complement, or resume a sanctioning procedure; and whether the anonymous whistleblower noticed the Investigation Unit as soon as possible. This also includes any other additional information that whistleblowers were aware of while the investigation was in progress.
- **Cooperation.** Considers whether anonymous whistleblowers cooperated with the Investigation Unit when requested, either by including explanations or complementary information to the one already presented in their submissions that contributed to the investigation and subsequent sanctioning process.

- **Seriousness.** Considers the impact that reported conducts have on the proper functioning of the activities or entities supervised by the Commission or on the development, operation, or stability of the financial market.

Interested parties can access the [Draft Rules and Norms section](#) of the CMF website to check the details of the proposal and submit their feedback until May 28, 2021. The Commission also makes available a [Frequently Asked Questions document](#), a [Presentation](#), and a [Regulatory Brochure](#) with the proposed regulation's core elements.

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