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Amendment to the Market Conduct Management Regulations of the Financial System

Through SBS Resolution No. 1870-2020 (the "Resolution"), published on July 30th 2020, the Superintendencia de Banca, Seguros y Administradoras Privadas de Fondos de Pensiones - "SBS") amended the Market Conduct Management Regulations (the "Regulations") of the Financial System.

The Resolution, which will enter into force 30 days after its publication, modifies the Regulations to introduce guidelines that will guarantee that Peruvian financial institutions maintain adequate market conduct towards clients with temporary difficulties meeting credit payments in the context of the COVID-19 National State of Emergency.

In particular, the Resolution establishes certain regulations to avoid abusive practices, as well as measures related to credit card offers and the treatment of clients with temporary financial difficulties:

1. Abusive practices:

- Behaviors that affect a user's legitimate interest by taking advantage of the particular circumstances of consumer relationships by imposing over-onerous conditions or conditions that were not foreseeable at the time the contract was signed, will be considered as abusive practices.
- The following are some of the abusive practices included in Annex No. 5 of the Resolution:
 - Modifying the membership fees of credit cards or the conditions for their waiver.
 - Limitations or restrictions to change credit cards.
 - Requiring the return of a credit or debit card as a condition for its cancellation.
 - Conditioning the contracting, modification or termination of a financial product or service to the contracting of additional unrelated financial products or services.

The list of abusive practices included in Annex No. 5 of the Resolution may be amended or expanded by the SBS.

2. Treatment of clients with temporary financial difficulties:

Financial institutions that have unilaterally amended or plan to amend (upon agreement with their clients) the contractual terms of credit facilities granted to clients currently or potentially presenting temporary payment delays in the context of the National State of Emergency, will be required to establish specific policies and procedures to offer said clients alternative payment solutions based on their economic situation and repayment capacity.

3. Offering credit cards without membership fees:

Financial institutions will need to include within their portfolio at least one credit card that does not charge a membership fee; and they will be required to inform users of the existence of said credit card prior to the client's acquisition of any other type of credit card.

4. Forbidden fees:

Within the list of examples of forbidden fees that do not comply with the Regulations' criteria, the Resolution expressly includes, any "access fees or arrangement charges related to the treatment of clients with temporary difficulties meeting credit payments in the context of the National State of Emergency".

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