

# Doing Business in Chile

## Guide 2025

### BANKING AND FINTECH



## EXECUTIVE SUMMARY

The modern Chilean banking system dates from 1925 when the Central Bank was founded and has been characterised by periods of substantial regulation and state intervention, and by periods of deregulation.

The most relevant period of deregulation started in 1975 and culminated in the adoption, in 1997, of a series of amendments to the Chilean Banking Act which granted additional lines of business to banks. These include general underwriting powers for new issues of equity securities, and the power to create subsidiaries to engage in activities related to banking, such as brokerage, investment advisory services, mutual fund services, investment fund management, factoring, securitisation products and financial leasing services. The last amendments to the Chilean Banking Act were enacted on 30 December 2023.

In 2018, a new law established the Financial Market Commission (CMF), the legal successor of the Superintendency of Banks and Financial Institutions and the Superintendency of Securities and Insurance, merging these two entities in one. This was one of the major regulatory milestones in recent years.

As of March 2024, the Chilean banking system has 17 private sector banks, 14 of which are considered “banks established in Chile”, 3 of which are branches of foreign banks, and 1 of which is a state-owned bank. Also, there are 2 local banks with branches abroad.

On 4 January 2023, the Chilean Fintech Law entered into force. The law regulates certain fintech services and creates an open finance system. It is based on the principles of financial inclusion and innovation, promotion of competition, financial customer protection, adequate safeguarding of processed data, preservation of financial integrity and stability, and prevention of money laundering and financing of drug trafficking and terrorism. The number of fintech companies in the country has grown by about 30% since 2021, especially in the areas of payments and remittances, and corporate financial management and lending.



## MAIN LAWS AND REGULATIONS GOVERNING BANKS

- \* The Chilean Banking Act of 1997 (Ley General de Bancos - the Banking Act) and its amendments.
- \* The Central Bank Organic Constitutional Law (Ley Orgánica Constitucional del Banco Central).
- \* Central Bank Compendium of Monetary and Financial Rules (Compendio de Normas Monetarias y Financieras del Banco Central).
- \* Law creating the Financial Market Commission (Ley que Crea la Comisión para el Mercado Financiero).
- \* CMF Updated Compilation of Rules (Recopilación Actualizada de Normas (RAN) de la Comisión para el Mercado Financiero).
- \* The Chilean Corporations Act of 1981 (Ley sobre Sociedades Anónimas - the Corporations Act).
- \* The Law that Promotes Financial Competition and Inclusion Through Innovation and Technology in the Provision of Financial Services, Fintech Law (Ley que Promueve la Competencia e Inclusión Financiera a Través de la Innovación y Tecnología en la Prestación de Servicios Financieros, Ley Fintec).
- \* Law that Creates the Financial Analysis Unit and Modifies Provisions on Money Laundering and Laundering of Proceeds of Crime (Ley que Crea la Unidad de Análisis Financiero y Modifica Diversas Disposiciones en Materia de Lavado y Blanqueo de Activo).

## GOVERNMENTAL AUTHORITIES WITH JURISDICTION OVER BANKS

### The Central Bank

The Chilean Central Bank (Banco Central de Chile) is an autonomous legal entity enshrined in the Chilean Constitution. It is subject to the provisions of the Chilean Constitution and to the Central Bank Organic Constitutional Law. The Central Bank is also subject to private sector laws if they comply with the Chilean Constitution. It is not subject to the laws applicable to the public sector.

The Central Bank is directed and managed by a board of directors comprising five members designated by the President of the Republic. Their appointment is subject to approval by the Senate.

The legal role of the Central Bank is to maintain the stability of the Chilean peso and the orderly functioning of Chile's internal and external payment system. The Central Bank's powers include setting reserve requirements,



regulating the amount of money and credit in circulation, establishing regulations and guidelines regarding finance companies, foreign exchange (including the so-called formal exchange market) and supervision of banks' deposit-taking activities.

Recently, the Fintech Law gave the Central Bank regulatory powers regarding the issuance of stablecoins as a means of payment, and their use in payment systems. The Central Bank also has regulatory powers with respect to requirements applicable to payment initiation service providers.

### The Commission for the Financial Market

Banks are supervised and controlled by the Commission for the Financial Market (Comisión para el Mercado Financiero) or "CMF" from its acronym in Spanish. The CMF is a technically focused public service, whose main purposes are ensuring the correct functioning, development, and stability of the financial market, facilitating the participation of market agents, and promoting the protection of public faith. The CMF authorises the creation of new banks. Additionally, it has broad powers to interpret and enforce legal and regulatory requirements applicable to banks.

In the case of noncompliance with such legal and regulatory requirements, the CMF can impose sanctions and if necessary, impose preventive or corrective measures. In extreme cases, it can appoint a provisional administrator to manage a bank. Any amendment to a bank's bylaws or any increase or reduction in its capital must be approved by the CMF.

The CMF requires banks to regularly provide a significant amount of operational information. It also requires monthly financial statements, which are published quarterly in a national newspaper, and the audited annual statements along with their independent auditor's report. It carries out its own audit on banks once a year and issues various regulations on information and documents that must be provided or published by banks. In 2021, the CMF published a regulation requiring banks to publish ESG and corporate governance related information in the annual report.

## BUSINESS AND THE BANKING ACT

The Banking Act is the most important law governing banks. The Banking Act states that unless an individual or legal entity is authorised by law, it cannot:

\* Engage in the business reserved by law for banks and, particularly, in the business of receiving or soliciting money or other repayable funds from the public on a regular basis, whether in the form of deposits or loans, or in any other form.



\* Engage, on its own account or on the account of other persons, in the business of money brokering or in the intermediation or brokerage of loans evidenced by securities, commercial papers or any other type of debt instrument.

An unauthorised person or entity cannot produce advertising or publicity intended to promote itself as engaged in the banking and financial intermediation business, nor can the unauthorised person or entity offer such services to the public.

Any violation of the foregoing constitutes an offence punishable by imprisonment.

## CORPORATE STRUCTURE

The Banking Act defines a bank as a “special purpose corporation that is authorised pursuant to the Banking Act and on the terms provided thereto to be engaged in the business of receiving money on deposit or other repayable funds from the public on a regular basis, with the purpose of granting credit, discounting negotiable instruments, making investments, engaging in financial intermediation or brokerage, yielding on such money and funds and, generally, undertaking any other transaction permitted by law.”

The Banking Act states that banks are managed by a board of directors. This board must be made up of an odd number of regular members, of whom there must be no less than five but no more than 11, with a maximum of two alternate directors. There is no restriction as to the nationality of the board members. Directors of a bank or non-banking financial institution must not be:

- \* A director of another bank or financial institution.
- \* An employee or director of a governmental entity or state-owned company
- \* An employee of the same bank.

## SCOPE OF ACTIVITIES

The Banking Act specifies all those operations and activities in which local banks may lawfully engage, setting out an exhaustive list of such operations and activities.

Local banks’ activities include, but are not limited to: deposit-taking and acceptance of other repayable funds from the public; issuance of bonds or debentures; lending (in its various forms); discount of commercial paper; issuance of mortgage bonds; money brokerage; intermediation or brokerage of commercial paper and debt instruments (which



does not include private offerings of securities); issuance of letters of credit and performance bonds; operations with derivative products; money collection, payment and transmission services; issuance and administration of means of payment (e.g., bankers' drafts, travellers cheques, and credit, debit and payment cards); issuance of guarantees; trading in money market instruments; foreign exchange; financial futures and options; exchange and interest instruments; acquisition, sale and trading in debt or fixed income transferable instruments and provision of underwriting services in connection with the issuance and placement of such securities; and acting as placement agent and underwriter in connection with offerings of newly issued shares of public corporations.

Banks are also authorised by law to render certain fiduciary (trustee and beneficiary) services to their clients. Banks may be:

- \* General or special attorneys for the management of third-party assets.

- \* Managers of assets that have been left as inheritance, subject to the condition that they be managed by a bank.

- \* Managers of fiduciary property when such management has been stipulated in the act of constitution of the fiduciary property.

Local banks are authorised to set up local subsidiaries, which may conduct the following operations:

- a) Stockbrokerage, broker dealing, management of mutual funds, investment funds or foreign capital investment funds, securitisation business, and insurance brokerage.

- b) Leasing, factoring, financial advisory services, custody and transport of securities, and credit collection and other financial services that the CMF, in accordance with a general ruling, deems ancillary to the banking business. Local banks are also authorised to set up subsidiaries in the form of real estate corporations to carry out business related thereto.

- c) Social security advisory for the purpose of providing information to the participants and beneficiaries of the pension system; they are also allowed to intermediate social security insurance.

The CMF has the power to authorise banks to directly provide any of the activities stated in (b) above.

## INCORPORATION

Pursuant to the Banking Act, the founding shareholders of a bank must file a prospectus with the CMF together with a business plan for the following three years. When the CMF approves a prospectus, it issues an interim authorisation that allows the founding shareholders to prepare the necessary documentation to incorporate the



entity and fulfil certain additional requirements, as described below. A deposit of at least 10% of the envisaged equity capital of the prospective entity is required.

The founders must also deposit the funds received for the payment of the shares issued by the newly formed banking institution. Such funds may only be drawn once the definitive authorisation of existence has been granted and the board of directors has taken office.

The CMF has a 180-day period to reject the prospectus, with cause. If it is not rejected, the founding shareholders may ask for it to be certified, and such certification will be deemed as the definitive authorisation of existence.

Within 10 months following the date of the interim authorisation of existence, the founding shareholders must incorporate the bank and submit the relevant documentation to the CMF. Upon verification that the equity contributions have been made, the CMF will authorise the existence of the entity. Such authorisation, as certified by the CMF, will be published and registered within 60 days, together with an abstract of the entity's incorporation documents.

Upon fulfilment of these requirements, the CMF must confirm within 90 days whether the entity is ready to start operations. It will look at whether the entity has the human and technological resources and control procedures required to operate. At such time, the CMF also reviews in detail the three-year business plan filed by the founding shareholders. It should be noted that the business plan will be continuously monitored by the CMF and may be modified to the extent that the modifications do not adversely affect the financial condition of the bank.

Once compliance with these conditions is verified, the CMF will authorise the entity to start operations within 30 days and grant a term of no more than one year to do so.

A foreign financial institution may set up or acquire a bank or set up a branch in Chile provided that:

- \* It is subject to adequate oversight from its country of incorporation.
- \* It has been previously authorised to do so by the relevant authorities in its country of incorporation.
- \* Adequate channels exist for the exchange of information between Chilean authorities and the relevant authorities in the country of incorporation of the foreign financial institution.
- \* It obtains the CMF's approval as described in this section.

For a foreign investment company that wants to set up or acquire a bank in Chile, or to set up a local branch in Chile, the Banking Act has different rules. These rules depend on whether the investment company is based in a country that applies the regulations of the Basle Committee.



If the investment company is based in a country which applies these regulations, it may proceed if it undertakes to give the CMF information issued by the authorities of its country of incorporation or, if no such information exists, information issued by independent auditors of recognised international standing.

If the investment company is based in a country that does not apply the regulations it can still proceed, but it must assure the CMF that it will comply with the same requirements described above for foreign financial institutions if it has, or thereafter acquires, a significant equity ownership in a bank or non-banking financial institution based in its country of incorporation or elsewhere.

Additionally, to set up a branch in Chile, a foreign bank or non-banking financial institution must produce and file with a local notary public:

- \* Documentation to prove the due setting-up, existence and good standing of the relevant foreign corporation pursuant to the laws of the country where it was incorporated. This documentation must include legalised copies of the Articles of Incorporation and bylaws of the foreign corporation, and a certificate issued by the competent authority of such country as to the incorporation and good standing of the corporation.

- \* The appointment of a local representative, with wide powers and authority.

The CMF will review the bylaws to determine that they do not contain anything contrary to Chilean law, that the institution is trustworthy, and to confirm the capital contribution in the country.

## RIGHTS AND OBLIGATIONS OF FOREIGN BANKS

It is important to note that foreign banks that operate in Chile through a branch have the same rights as domestic banks of the same category. Foreign banks are subject to the same rules and regulations as their Chilean counterparts unless otherwise stated by law. A foreign bank does not have any special status stemming from its nationality regarding the operations carried out by its branch in Chile. Indeed, all disputes over operations of the branch in Chile are resolved by the Chilean courts in accordance with Chilean law.

The capital and reserves allocated to the branch must be brought into the country and converted into local currency in accordance with the regulations established by the Central Bank.

Regarding operations carried out between the foreign bank and its Chilean branch, they are deemed independent from each other. This does not mean, though, that the foreign bank cannot be held liable if its branch does not comply with any obligations incurred in Chile.





A foreign bank's creditors, whether Chilean or foreign but domiciled in Chile, have preference over the assets of the Chilean branch.

Besides the right to create a branch, foreign banks may establish a representation office that acts as a business agent for the foreign bank's headquarters and promotes the products and services of such bank in the conditions set forth by the CMF.

The CMF has the same surveillance rights over these representation offices as over the banking institutions. A representation office, however, may never engage in the banking business itself. In addition, the CMF may revoke the authorisation at any time i) should the office not comply with the aforementioned requirement, or (ii) its existence is deemed problematical for the correct operation of the Chilean banking system.

## OWNERSHIP RESTRICTIONS

The Banking Act states that no person or company may acquire, directly or indirectly, bank shares that solely, or together with shares previously owned, represent more than 10% of the capital stock of the bank, without the prior authorisation of the CMF. The authorisation may not be unreasonably withheld. In the absence of such authorisation, no person or group of persons acting as a single unit may exercise voting rights with respect to such shares. In determining whether to authorise an acquisition, the CMF looks at a number of factors specified in the Banking Act, including the financial stability of the purchasing party.

The Banking Act also establishes restrictions on transactions that could affect the ownership of a Bank. Prior authorisation is required from the CMF for the following:

- \* The merger of two or more banks.
- \* The acquisition of all or a substantial part of the assets and liabilities of a bank by another bank.
- \* The acquisition and control of two or more banks by one person or controlling group.
- \* A substantial increase in the share ownership by a controlling shareholder of a bank.

Please note that the above prior authorisation is required only when the transaction would result in the acquiring bank, or the resulting group of banks, owning a significant market share of loans, defined by the CMF as more than 15% of all loans in the Chilean banking system. The CMF may deny authorisation with a prior report issued by the Council of the Central Bank (Consejo del Banco Central) and approved by most of its members. Also, the CMF may review the transaction considering the regulations adopted under the Basel III capital framework.



The Banking Act also states that individuals or legal entities who individually or collectively directly control a bank, and which individually own more than 10% of its shares, must provide the CMF with reliable information on their financial situation.

## MINIMUM CAPITAL AND CAPITAL ADEQUACY REQUIREMENTS

Under the Banking Act, a bank must have paid-in capital and reserves of at least UF 800,000 (around USD40 million). However, a bank is only required to contribute 50% of this amount by the date of its incorporation. There is no mandatory period for contributing the remaining balance. Notwithstanding the above, if a bank has not contributed the minimum capital, it must have effective equity (patrimonio efectivo) of not less than 12% of the bank's risk-weighted assets. When the bank's paid-in capital reaches UF 600,000 (around USD30 million) the requirement is reduced to 10%.

According to the Banking Act, every bank must have effective equity of at least 8% of its risk-weighted assets, net of required allowances. Effective equity is defined as the aggregate of:

- \* A bank's paid-in capital and reserves, or its net capital base (capital básico).

- \* Its subordinated bonds, considered at the issuing price and with a value up to 50% of its net capital base. The value of the bonds to be considered in calculating the effective equity will decrease by 20% per year within the six years prior to maturity.

- \* Its voluntary allowances for loan losses, up to 1.25% of risk-weighted assets.

A bank should also have a net capital base of at least 3% of its total assets, net of reserves. Net capital base is defined as a bank's paid-in capital and reserves and is like Tier 1 capital, except for the fact that it does not include net income for the period.

The calculation of risk-weighted assets is based on a five-category risk classification system which is applied to the bank's assets. It is based on the Basel Committee's recommendations.

## LOCAL INFRASTRUCTURE REQUIREMENTS

Banks must inform and in certain circumstances request the authorisation of the CMF when an office or branch opens or closes. Banks are required by law to open on banking days. Likewise, the CMF has ruled that such offices and branches must be established in premises or on land owned or leased by the relevant bank.



The offices and branches must comply with certain security and crime prevention measures. The CMF has issued regulations regarding the maintenance and destruction of information and records, and standards for evaluating the management procedures of banks and non-banking financial institutions.

## CONSUMER CREDIT REQUIREMENTS

The Banking Act contains certain lending limits applicable to banks. Banks are forbidden from:

- \* Directly or indirectly extending to any entity or individual (or any group of related entities), unsecured credit that exceeds 10% of the bank's effective equity, or that exceeds 30% of its effective equity if the excess over 10% is secured by certain assets with a value equal to or higher than such excess.
- \* If financing infrastructure projects built through the concession mechanism, the ceiling for unsecured credits is raised to 15% if secured by a pledge over the concession, or if granted by two or more banks or finance companies which have executed a credit agreement with the constructor or holder of the concession.
- \* Extending loans to another financial institution subject to the Banking Act in an aggregate amount exceeding 30% of its effective equity.
- \* Granting, directly or indirectly, a loan that allows an individual or entity to acquire shares of the lender bank.
- \* Lending, directly or indirectly, to a director or any other person who has a general power to act on behalf of the bank.
- \* Granting loans to related parties (including holders of more than 1% of its shares) on more favourable terms than those generally offered to non-related parties. Loans granted to related parties may not exceed 5% of the bank's effective equity.

## RESERVE REQUIREMENTS AND DEPOSIT INSURANCE

Deposits and funds-raising transactions payable on demand are subject to a reserve requirement of 9%. Time deposits and term funds-raising transactions (captaciones a plazo) of up to one year, and time deposits of over one year are subject to a reserve requirement of 3.6%. Funds-raising transactions (other than deposits) of over one year are not subject to any reserve requirements. Note that for these purposes, deposits, and funds-raising transactions with a maturity date of less than 30 days, are considered to be deposits and funds-raising transactions payable on demand. If the maturity date is within 30 days or more, they are considered time deposits and time funds-raising transactions.



The Central Bank has statutory authority to increase reserve requirements up to an average of 40% for demand deposits of any denomination and up to 20% for time deposits of any denomination when implementing monetary policy.

In addition, a 100% technical reserve applies to all demand deposits, demand funds-taking transactions, and the amounts that a bank must apply to the payment of demand obligations it has acquired in its financial business. However, obligations with other local or foreign banks are exempt whenever the aggregate sums owed thereunder exceed 2.5 times such bank's net capital base. This technical reserve must be calculated daily and may be kept in local or foreign currency in Chile, either in deposits held in a special account with the Central Bank, in foreign currency deposits with the Central Bank, in overnight deposits with the Central Bank, and in other documents issued by the Central Bank or the Chilean Treasury.

The Government guarantees up to 90% of the principal amount of certain time deposits and funds-raising transactions held by members of the public. The Government's guarantee covers those obligations up to a maximum value of UF 120 (around USD 6,000) for each calendar year, with respect to the total guaranteed obligations of the secured individual at the same Chilean bank or in the whole financial system.

## CONFIDENTIALITY

The Banking Act states that deposits and other repayable funds of any type received or taken by banks are subject to strict banking secrecy laws. Information or data in connection with a deposit can only be disclosed to the customer, his or her agents or representatives, or anyone expressly authorised to receive it. Contravention constitutes a criminal offence punishable by imprisonment.

All other banking transactions are subject to "reserve," which is another, less strict, form of confidentiality. However, information connected to these transactions may be disclosed by the banking institutions to any third party showing a legitimate interest, if there is no reason to believe that knowledge of the same by such third parties may result in pecuniary damage to the customer. Detailed disclosure of these banking transactions may be made to professional businesses engaged in the evaluation of the bank. These firms are bound by the same confidentiality rules.

Under the same provision, Chilean courts have the authority to mandate the disclosure or audit of specific transactions directly linked to a relevant lawsuit. This includes accessing information about deposits or other repayable funds conducted by individuals who are either parties to the lawsuit or facing charges in the civil or criminal proceedings..

The Financial Analysis Unit (Unidad de Análisis Financiero - UAF) is a supervisory government entity mandated with the specific purpose of preventing and thwarting the utilisation of the financial system and other areas of the



economy for money laundering purposes. The UAF (Financial Analysis Unit) is authorized to demand from the reporting entities outlined in Law 19,913, including banks, any information considered essential for conducting or finalizing the analysis of a suspicious transaction previously reported to or identified by the UAF. The organisation can also demand information requested by foreign financial intelligence units with which it has bilateral information-exchange agreements.

If information required by the UAF is protected by secrecy or reserve, it must apply to the Santiago Court of Appeals. A judge chosen at random from the Court will examine the request. Both the UAF request for the protected information, and the resolution of the judge, must be based on “specific facts” that justify making an exception to the secrecy or reserve protection. As declared by the Constitutional Tribunal – the court established to uphold the supremacy of the Chilean Constitution – the judge will thoroughly examine in detail the background of the suspicious transaction in order to verify that the UAF request is well grounded.

If the UAF request is rejected by the judge, the UAF may challenge the decision at the Court of Appeals. The case details are kept secret and returned to the UAF after the appeal process is completed.

Any person who is under a professional secrecy obligation is not required to disclose information that is deemed protected.

If information protected by secrecy or reserve is disclosed during a UAF investigation, but no further information arises that would enable the Public Prosecutor’s Office (Ministerio Público) to clarify the facts, the Public Prosecutor’s Office may temporarily file the investigation until new evidence emerges.

The Chilean Bank Chequing Accounts and Cheques Act specifically states that a banking institution must keep in “strict reserve,” vis-à-vis third parties, all information relating to chequing accounts maintained by its customers. It may only disclose this information to the account holder, or anyone authorised by them. However, Chilean courts may order the disclosure of specific entries or transactions of a chequing account during civil or criminal actions that affect the account holder.

This duty imposed on bankers to keep in “strict reserve” any information or data related to the chequing accounts of its customers is a form of confidentiality tantamount to secrecy.

Those who fail to comply with or violate the bank’s secrecy duty may be criminally prosecuted and, together with the bank itself, may be held liable for damages. Disclosure of information or data subject to the less confidential “bank reserve” may also result in the bank being found liable in the civil courts. In addition, a bank can be subject to administrative sanctions. These sanctions, as determined by the CMF, may vary from a mere rebuke to fines, depending on the circumstances.



## BANKS IN ECONOMIC DIFFICULTY

The Banking Act states that if specified adverse circumstances exist at any bank, it must report the situation to the CMF and file a regularization plan with measures to remedy the situation within the following 5 days. Its proposal must indicate a timescale to comply with the plan, that shall not exceed six months from the notification of the resolution that approves the plan, unless expressly authorized by the CMF. The CMF is responsible for assessing the adequacy of the plan and may provide feedback or request additional measures to be included if deemed necessary. If the plan necessitates a capital increase, the bank's board of directors is required to convene a shareholders' meeting specifically for this purpose.

If the shareholders reject the capital increase, or if it is not implemented within the agreed-upon timeframe or manner, or if the CMF does not approve the board's proposal, the bank will be prohibited from:

- (i) Granting new loans to any individual or legal entity linked to the ownership or management of the institution.
- (ii) Renewing any credit for more than one hundred and eighty days.
- (iii) Increasing or limiting the guarantees of current credits.
- (iv) Acquiring or disposing of tangible or intangible assets corresponding to fixed assets or financial investments.
- (v) Disposing of documents from its placement portfolio.
- (vi) Granting credits without guarantee.
- (vii) Entering into certain acts, agreements, or conventions, or renewing those in force with certain individuals.
- (viii) Granting new loans or acquiring financial investments if the growth of financial placements and investments exceeds the variation of the UF (inflation-indexed monetary unit) in the same period.
- (ix) Granting new powers of attorney enabling the execution of any of the aforementioned acts.
- (x) Making investments, except in instruments issued by the Central Bank of Chile and the General Treasury of the Republic.
- (xi) Accelerating the expiration of any obligation or restructuring liabilities without prior authorization from the Commission.

In such a case, or if a bank is unable to make timely payment in respect of its obligations, or if a bank is under provisional administration of the CMF, the Banking Act states that the bank may receive a three-year term loan from



another bank. The terms and conditions of such a loan must be approved by the directors of both banks, as well as by the CMF, but need not to be submitted to the borrowing bank's shareholders for their approval.

In any event, a creditor bank cannot grant inter-bank loans to an insolvent bank for more than 25% of the creditor bank's effective equity. The board of directors of a bank that is unable to make timely payment of its obligations must present a reorganisation plan to its creditors to capitalise loans, extend their respective terms, condone debts or take other measures for the payment of the debts. The CMF must assess this plan with respect to its effects on the actual improvement of the bank, especially if the condonation of the debts is essential.

## DISSOLUTION AND LIQUIDATION OF BANKS

The CMF may determine that a bank should undergo liquidation if it is found that the bank lacks the solvency to sustain operations or if the safety of its depositors or other creditors necessitates liquidation.

In such cases, the CMF must revoke the bank's authorisation of existence and order its mandatory liquidation, subject to the approval of the Central Bank. The CMF must also revoke the bank's authorisation if the reorganisation plan of the bank has been rejected twice.

The CMF resolution must state the reason for ordering the liquidation and must appoint a liquidator, unless the CMF directly assumes the responsibility.

When liquidation is declared, all chequing accounts, demand deposits received in the ordinary course of business, deposits immediately and unconditionally payable or that have a maturity of no more than 30 days, and any other deposits and receipts payable within 10 days, are required to be paid by using the bank's existing funds, its deposits with the Central Bank, or its investments in instruments corresponding to its reserves.

If these funds are insufficient to pay these obligations, the liquidator may seize the rest of the bank's assets as needed. If necessary and in specified circumstances, the Central Bank will provide the bank with the funds necessary to pay these obligations. If the Central Bank lends funds, any such loan will be preferential to any claims of other creditors of the liquidated bank.

## FINTECH LAW

The Fintech Law mainly regulates certain fintech services and modifies 17 other laws. It is inspired by the principles of financial inclusion and innovation, promotion of competition, financial customer protection, adequate safeguarding of processed data, preservation of financial integrity and stability, and prevention of money laundering and financing of drug trafficking and terrorism.



The regulated services are divided in two groups: financial services based on technology, and the open finance system. Among the first, are credit advisory; investment advisory; crowdfunding; alternative transaction systems; custody of financial instruments; order routing; and intermediation of financial instruments. Among the second, are initiation of payments and exchange of different information of customers between financial institutions, with the previous consent of the customer.

The CMF is the regulator and must act according to the principles of proportionality, based on risks, modularity, and technological neutrality. It has authority to sanction companies that do not comply with the fintech law, and it may even suspend the authorization to provide services.

According to the law, the CMF has the responsibility to implement the law through the issuance of around 70 different regulations. It is also the entity that keeps the registries of companies providing regulated services, and that must authorize companies that comply with the legal requirements for these purposes. The registries created by the fintech law are the Registry of Providers of Financial Services; the Registry of Providers of Initiation of Payments; and the Registry of Providers of Services based on Information.

The requirements are established depending on the regulated service that a company provides. The law establishes the minimum requirements, and the CMF must issue regulations with the details of these requirements. The CMF is also empowered to establish different forms of compliance, as well as to exempt from certain requirements in certain circumstances.

The requirements for registration are formal, mainly related to identification and background. On the other side, the requirements for authorization include: the need to have the necessary systems and procedures to comply with reporting and dissemination obligations; to have the operational capacity to support the processing of transactions carried out through its systems or infrastructure; to comply with corporate governance and risk management requirements; to have an internal regulation aimed at ensuring the existence of a fair, competitive, orderly and transparent secondary market for financial instruments; to provide guarantees; and to have a minimum capital.

The entities providing services regulated by the fintech law are also obliged to be registered with the Financial Analysis Unit, and to report suspicious activity.