CUATRECASAS

Doing business in Chile

2024 Edition

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These guidelines provide general information to investors interested in operating in Chile. They include legal issues that may require advice.

They must not be considered a detailed, complete analysis of Chilean law. They must not be interpreted as legal advice from Cuatrecasas.

These guidelines were drafted based on the information available on May 30, 2024. Cuatrecasas has no obligation and assumes no liability with regard to updating this information.

Content

Introduction

These guidelines provide an overview of key legal aspects for foreign investors interested in investing in Chile. It's not intended as detailed guideline, but rather to address practical issues to help investors considering starting investment projects in Chile.

Cuatrecasas is a law firm that advises on all areas of business law through a multidisciplinary, diverse and highly qualified team of more than 1,200 lawyers and 26 nationalities.

We have a network of 27 offices in 13 countries and significant footprint in Spain, Portugal and Latin America, where we are present in the main cities. We have over 20 years of experience and a team of over 125 professionals who operate from our offices in Chile, Colombia, Mexico and Peru. From a sectoral vision and focused on each type of business, we have accumulated deep knowledge and experience in the most sophisticated advice, covering ongoing and transactional matters.

We focus on client services through collective knowledge supported by innovation and state-of-the-art technology and incorporating ESG criteria. We foster a culture of innovation applied to the legal activity, which combines training, procedures and technological resources to enhance efficiency.

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1 Chile: a promising outlook for foreign investment

1.1. Strategic position and open economy

Chile stands out as an attractive destination for foreign investment thanks to its strategic position as a gateway to the Latin American market and its close links with the Asia-Pacific markets through the Pacific Alliance. Its open, export-oriented economy, recognized for its stability and sustained growth, benefits from numerous free trade agreements that grant its preferential access to the global market. In addition, Chile's strong infrastructure and commitment to international economic integration facilitates the flow of goods and capital.

Chile is the most competitive economy in South America according to the Global Competitiveness Index and is positioned as a leader in the region in terms of human development, political stability and transparency. With a population of approximately 19,000,000, Chile not only offers a domestic market with high purchasing power, but also serves as a platform for business and exports, particularly in sectors such as mining, agriculture and renewable energy.

Spanish is the official language and is spoken by the vast majority of the population.

1.2. Legal framework

The Chilean legal system provides a solid and reliable framework for investors, with strict respect for the rule of law and the protection of private property.

Chile is a democratic republic with a clear division of powers: executive, legislative and judicial. The executive branch is headed by the President of the Republic, while the legislative branch consists of two chambers, the Senate and the Chamber of Deputies. The independent and autonomous judiciary guarantees compliance with the law and the legal certainty necessary for investments.

The country has a Supreme Court that ensures the proper interpretation of laws and a Constitutional Court that ensures the supremacy of the Constitution. Chile's integration into the Organization for Economic Cooperation and Development ("**OECD**") reinforces its commitment to public policies aligned with international standards, which results in a business-friendly environment.

Chile also offers excellent quality of life, with a diversity of natural landscapes, from the Atacama Desert to the glaciers of Patagonia, and an urban infrastructure that includes modern and efficient cities. Its social stability and a constantly improving health and education system make Chile not only an attractive destination for business, but also a desirable place to live.

2

Prior authorization for foreign investments is not required, except in certain strategic sectors

Corporate

2.1. Foreign investment

Chile offers a favorable framework for foreign direct investment, based on the free market, legal stability and no arbitrary discrimination. Act Nº20.848 of 2015 provides the framework for foreign direct investment in Chile ("**Foreign Investment Act**") and establishes the Foreign Investment Promotion Agency (also known as "**Invest Chile**"), whose purpose is to promote and facilitate foreign investment by issuing certificates enabling access to certain benefits.

In addition to the benefits under the Foreign Investment Act, Chile has signed a wide network of international agreements, treaties and conventions, including Double Taxation Agreements and Free Trade Agreements, that offer safety and advantages to foreign investors.

On the other hand, in general terms, prior authorization for foreign direct investment in Chile is not required, except in certain strategic sectors such as hydrocarbons exploration and exploitation and nuclear energy production. These sectors are subject to a special regime that includes the signing of special contracts with the State, which must be approved by the National Congress.

2.1.1. Key concepts of the Foreign Investment Act:

Under the Foreign Investment Act, foreign direct investment means transferring to Chile capital or assets worth USD 5 million or more (or the equivalent in other currencies), owned or controlled by an individual or legal person incorporated abroad that is not a resident or domiciled in Chile. This direct investment can take on different forms, e.g., foreign currency, physical assets, profit reinvestment, loan capitalization, technology or loans associated with foreign investments from related companies.

Direct or indirect acquisition or participation in the equity or assets of a company incorporated under Chilean law that gives the investor significant control over part of it is also considered foreign direct investment. Significant control is understood as the investor holding at least (i) 10% of the voting rights of the shares of the investee company; or (ii) an equivalent percentage in the share capital, if it is another type of company, or in the company assets.

2.1.2. Foreign investor rights under the Foreign Investment Act:

To benefit from the rights under the Foreign Investment Act, foreign investors must apply for a certificate from the Foreign Investment Promotion Agency to prove that they fulfill all the legal requirements. The certificate must be issued within 15 days from the date all the documentation required by Invest Chile is submitted.

The rights granted by the certificate, once the requirements and procedures established under domestic regulations and all tax obligations have been met, are as follows:

- The right to send abroad the invested capital and the net profits from the investments.
- The right to access the formal exchange market (comprising banks and authorized financial entities) to settle the currencies in which the investment is denominated and to obtain the necessary foreign currency to send abroad the invested capital and the net profits from the foreign investment.
- The right to exemption from sale and service tax on importing capital goods.
- The right to non-discrimination, whether direct or indirect, while remaining subject to the common legal system applicable to domestic investors.

2.1.3. Central Bank Foreign Investment Income Registration System

Foreign capital transfers entering the country from loans, deposits, investments or capital contributions originating abroad and exceeding USD 10,000, or the equivalent in other currencies, must be transferred through the formal exchange market and reported to the Central Bank of Chile.

This registry system is regulated in Chapter XIV of the International Exchange Standards of the Central Bank of Chile.

2.2. Business structures in Chile

The most widely used business structures in our country are the following:

2.2.1. Individual limited liability company (*Empresa Individual de Responsabilidad Limitada*, "EIRL"):

This type of business structure is regulated by Act Nº 19.587 of 2003, and it enables individuals to start a business with the possibility of separating and protecting personal assets from assets intended for business. Thus, entrepreneurs can limit their financial liability to the initial capital invested in the company, without risking personal assets beyond that amount.

To incorporate an EIRL, a public deed is required, in which individual entrepreneurs can use their own name or choose a fantasy name that identifies the activity or type of business, together with the expression

"Individual Limited Liability Company" or the acronym "EIRL."

The management and administration of the EIRL can be exercised directly by the entrepreneur, who has the power to make decisions and manage the business or delegate these functions to a general manager appointed according to instructions.

The EIRL is a flexible organizational structure that allows the owner to carry out a wide range of economic activities, both civil and commercial, except those that Chilean law reserves exclusively for public limited companies.

2.2.2. Limited liability company (*Sociedad de responsabilidad limitada*, "SRL"):

This business structure is a legal entity incorporated and operated under Act Nº 19.587, the Commercial Code and the Civil Code. SRLs are partnerships whose members are financially liable up to the amount of their respective contributions, unless they agree to greater liability when the SRL is incorporated.

SRLs are incorporated through a public deed, an excerpt of which must be filed with the Commercial Registry of the Asset Registrar (*Registro de Comercio del Conservador de Bienes Raíces*) with jurisdiction over the location of the company's registered office and published in the Official Gazette within 60 days. SRLs must have between 2 and 50 members, who can be Chilean or foreign individuals or legal persons.

As regards the name of the company, it may include the name of one or more of its members or refer to the company's corporate purpose, but the term "limited" must be included; omitting it implies that the members assume joint and several liability for the corporate obligations.

This structure offers flexibility in defining its corporate purpose, as well as in its management and internal control mechanisms. There are no minimum capital requirements for incorporating or operating a public limited liability company. Capital can be paid in cash, assets and even in work or services provided by the members.

2.2.3. Public limited liability company (*Sociedad anónima*, "SA"):

This type of company is incorporated and operates under Act Nº 18.046, in addition to the Commercial Code and the Civil Code, whose main feature is being a capital company with its own legal personality, independent of its shareholders.

An SA is incorporated in a public deed that must include the company bylaws and identify its shareholders, amount of subscribed capital, corporate purpose, duration and form of management, which requires participation of at least two shareholders that can be national or foreign individuals or legal persons.
An excerpt of the public deed must be published in the Official Gazette and registered with the Commercial Registry of the Asset Registrar with jurisdiction over the company's registered office within 60 days. The name of the SA may include the name of one or more shareholders or a made up name, followed by the letters SA.

The capital of an SA is divided into shares through contributions from shareholders that are liable only up to the amount of their respective contributions. We highlight that there are no minimum capital requirements for incorporating or operating a public limited liability company. The share capital can be paid in cash or in other assets, in which case they must be previously appraised by the shareholders. Issuing shares as compensation for a shareholder's personal work or services is not allowed.

This type of company is managed by a board of at least three directors in closed SAs and five in open SAs. Only individuals, whether Chilean or foreign, can be directors, and they can be removed. They adopt decisions by majority vote.

There are three types of SAs:

- **Open:** shares are traded on the Stock Exchange and, by law or voluntarily, they must register their shares with the Securities Registry of the Financial Market Commission (*Comisión para el Mercado Financiero*, "**CMF**"), which is the controlling regulator.
- **Special:** subject to special rules and expressly subject to the procedures of Title XIII of the Companies Act.
- **Closed:** shares are not traded on the Stock Exchange.

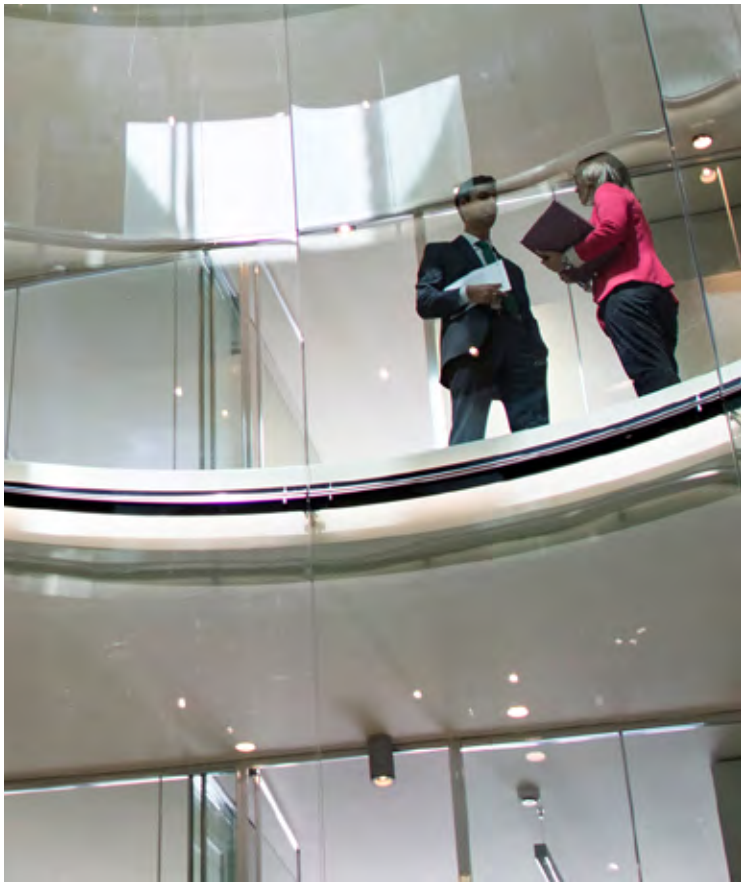
Stock companies allow for greater structural and organizational and are an attractive option for entrepreneurs and investors

2.2.4. Stock company (*Sociedad por acciones*, "SpA"):

This is a combination of an SA and an SRL, governed mainly by articles 424 et seq. of the Commercial Code and its bylaws, in addition to the rules for closed SAs. These companies stand out for their great structural and organizational flexibility and are an attractive option for entrepreneurs and investors, which is corroborated by their growing popularity in recent years.

An SpA is a legal entity created by one or more national or foreign individuals or legal persons incorporated in a public deed or a private instrument signed by its grantors, whose signatures are certified by a notary public. An excerpt of the public deed must be published in the Official Gazette and registered with the Commercial Registry of the Asset Registrar with jurisdiction over the company's registered office within 60 days.

The capital of an SpA is divided into shares created by contributions from shareholders, who are liable only up to the amount of their respective contributions. We highlight that there are no minimum capital requirements for incorporating or operating an SpA. Capital can be paid in cash or by contributing other assets, in which case they must be previously appraised by the shareholders. Unlike SAs, issuing shares as compensation for a shareholder's work or services is not prohibited.



A foreign SA can also establish an agency in Chile to operate without incorporating a company with formal legal personality

The shareholders can freely establish the form of management in the bylaws, and they can opt for one or more managers or a board of directors. Managers can be Chilean or foreign individuals or legal persons. If the SpA is managed by a board of directors, its members can only be individuals.

2.2.5. Agencies of foreign public limited liability companies in Chile:

A foreign public limited liability company can operate in Chile without incorporating a formal company. The Companies Act provides legal recognition to foreign companies so that they can operate in Chile without acquiring a formal legal personality.

A foreign SA's appointed agent or legal representative in Chile must formally execute the following documents before a notary public at the location of the intended domicile under the terms of the legislation in force:

- Proof that the foreign public limited liability company is legally incorporated under the laws of its country of origin, plus a certificate of good standing.
- A certified copy of the foreign SA's current bylaws.
- A general power-of-attorney granted by the foreign SA to the agent that will represent it in Chile specifying (i) the legal status of the foreign principal; (ii) that the agent will act in Chile under the foreign SA's direct responsibility; and (iii) that the agent will have broad powers to operate on its behalf, as well as all ordinary and special powers required by law.

At the time the foreign corporate documents are notarized, the representative of the agency or branch must sign a public document before the same notary public, making all legally required statements so that, on the company's behalf and with sufficient powers, the foreign company's agency in Chile can be created. The legally required statements are:

- That the foreign SA is familiar with Chilean legislation and regulations that will govern its agencies, operations, contracts and obligations in Chile;
- That the company assets are subject to the laws of Chile, especially with respect to fulfilling any obligations arising in Chile;
- That the company undertakes to maintain easily realizable assets in Chile to fulfill any obligations arising in our country;
- The address of the main agency, which will be considered the headquarters in Chile, although other domestic branches may be opened in other cities.

Subsequently, and within 60 days from the date the documents are notarized, an excerpt of the notarization and of the public deed must be filed with the commercial registry and published in the Official Gazette.


Fan
Temperature
Wifi
Music

2.3. Fintech (Financial technology)

In the dynamic world of fintech, Chile has taken significant steps to promote innovation and financial inclusion. The enactment of Law Nº 21.521, known as the Fintech Act, clearly shows the country's commitment to modernizing its financial system and its objective of creating a more competitive and accessible ecosystem for all market players.

The main purpose of the Fintech Act is to encourage the provision of financial services through technological means. This approach seeks not only to improve the efficiency and quality of the services offered, but also to extend their scope to other segments of the population.

The CMF plays a crucial role in overseeing Fintech activities. t is responsible for verifying that companies in the sector comply with established standards and regulations, thus ensuring transaction security and transparency.

In addition, the process of registering securities with the CMF Securities Registry is simplified by requesting less background information and establishing a simplified registration regime that aims to facilitate smaller companies' access to the capital market.

Cryptoassets are also recognized and defined as digital representation of units of value, goods or services, except money, whether in national or foreign currency, which can be digitally transferred, stored or exchanged, and provides the opportunity to use them as means of payment.

3 Taxes

3.1. Income tax

3.1.1. Background:

The Chilean tax system is characterized by a broad concept of income covering profits and revenues, either from an asset or activity, as well as any increase in equity, regardless of its nature, origin or denomination.

Under the Chilean Income Tax Act (*Ley del Impuesto a la Renta,* "**LIR**"), all individuals and entities domiciled or resident in Chile, whether national or foreign, are taxed on their worldwide income. Anyone residing in Chile with actual or presumed intention of remaining in the country will be considered domiciled in Chile.

An individual who spends more than 183 days in Chile during any 12-month period will qualify as a tax resident in Chile. Companies incorporated in Chile will be considered tax residents.

Nonresident individuals or entities are generally tax only on their income from Chilean sources, meaning income from assets located in Chile or from activities carried out in the country, regardless of the taxpayer's domicile or residence.

However, all income arising from foreign companies' activities in Chile or abroad will be taxed in Chile when profit can be attributable to agencies, branches or other permanent establishments in Chile.

In addition, the LIR contains special provisions on income from Chilean sources, including:

- **Intellectual property:** Profits from copyright, trademarks and similar services used in Chile are considered income from Chilean sources.
- **Securities and securities:** Shares in Chilean companies, as well as bonds and other debt securities issued in Chile, whether on the public or private market, are considered located in the country.
- **Debt interest:** Interest on loans, bonds and other debt instruments is associated with the debtor's domicile in Chile, even if issued or contracted through a foreign branch.

For the purpose of Chilean tax legislation, all income other than Chilean-source income is foreign-source income.

Furthermore, the current tax regulations provide a tax relief for the first three years after foreign investors enter Chile, so that those domiciled or residing in the country are only taxed on income obtained from Chilean sources, without prejudice to that period being extended.

In Chile, income taxes are classified as category taxes and final taxes.

3.1.2. Category taxes:

Category taxes are applied to income according to the type of economic activity that generates them, i.e., according to their origin or source and are preliminary in nature, to the extent that they can give rise to a tax credit against final taxes, if they meet the requirements established by tax legislation. The main categories are explained below:

- **First Category Income Tax (*Impuesto de Primera Categoría*, "IDPC"):** Corporate tax is levied at a 25% or 27% rate—depending on the taxpayer's regime and regardless of its legal structure—on company income from industry, trade, mining, real estate and other activities that involve the use of capital, including any capital gains, regardless of their source, nature or denomination. It must be filed and paid by the end of April every year.

  Expenses necessary to generate income and that a company incurs in performing its activities can be deductible from gross income, if they meet the requirements established by the tax legislation. Also, tax actually paid by the company can be deducted as credit against the final taxes imposed on company owners, partners or shareholders.

- **Single Second Category Tax:** This tax is payable monthly at a progressive rate with a top marginal rate of 40% on income from employment (i.e., levied on workers subject to an employment contract) when their monthly gross salary exceeds approximately USD 860. Employers must withhold this tax every month after pension, disability and health benefits have been deducted from taxable income.

- **Independent Second Category Tax:** Income from liberal professions or any other for-profit activities not included in the first category or subject to single second category tax, and income obtained by brokers that are individuals whose income comes exclusively from their professional activity or services, without using any capital. Income obtained by partnerships exclusively providing professional services and advice will be subject to Global Complementary Tax or Additional Tax (final taxes), depending on whether the taxpayer is domiciled or resident in Chile.

  Note that partnerships exclusively providing professional services and advice may choose to file their tax returns under the IDPC rules,

but if they choose this option, they are not allowed to go back to the second category tax system.

a. IDPC: Taxpayer regimes:

Taxpayers subject to ICPI fall under the following main regimes:

- **General regime 14(A):** This is the generally applicable regime, covering income from companies required to file the IDPC tax return for their actual income calculated on a full accounting.

  Under this regime, companies are taxed at 27% on their taxable income (*Renta Líquida Imponible*, "**RLI**"), which will be annually determined as of December 31.

  If withdrawals or distributions are made to partners or shareholders, they will be able to credit the IDPC paid by the company against the final tax levied on them. However, partners and shareholders must repay 35% of the first category tax credit paid, their tax burden being capped at 44.45%, considering corporate tax and final taxes.

  If the partner or shareholder receiving these distributions or dividends is a tax resident in a country that has a double taxation agreement ("DTA") with Chile, there is no repayment obligation, and all the corporate tax paid can be credited against the withholding tax on these remittances. In other words, the maximum tax burden will be 35%. See a summary below:

ITEM	With DTA		Without DTA	
Taxable income		100		100
IDPC	27%	27	27%	27
Dividend paid to the shareholder		73		73
Increased tax base		100		100
Additional tax	35%	35	35%	35
IDPC tax credit	100%	27	100%	27
Additional tax		8		8
Repayable tax credit	0%	0	35%	9,45
Additional tax due		8		17,45
Effective tax rate		35%		44,45%
Net remittance received by the shareholder		**65**		**55,55**

- **Pro-SME Regime:** Applicable to small and medium enterprises ("**SME**") with an initial capital below €3,200,000 and average income below €2,800,000. Their income (i.e., earnings minus

deductible expenses) will be taxed at a 25% rate, and SMEs will not be required to repay the first category tax credit. Exceptionally, the applicable rate in 2024 will be reduced to 12.5%.

b. Authorization for bookkeeping, filing tax returns and paying taxes in foreign currency:

As a rule, Chilean companies must keep their tax accounting records in Spanish and in Chilean pesos. However, if they meet certain requirements, they can request authorization from the Chilean Internal Revenue Service (*Servicio de Impuestos Internos*,"**SII**") to do so in USD, EUR and Canadian dollars.

If the SII authorizes bookkeeping in foreign currency, companies can also request authorization to file and pay their taxes in foreign currency.

3.1.3. Final taxes:

Final taxes are those that tax the income already accumulated, either definitively or as a single tax, without credit against other taxes.

- **Global complementary tax:** This tax is payable annually at a progressive rate with a top marginal rate of 40% on the income of individuals domiciled or resident in Chile for tax purposes. Eventually, as a result of the obligation to repay the first category tax by companies owned by individuals subject to the global complementary tax, the effective rate may reach up to 44.45%.
- **Additional tax:** This tax is applied on (i) Chilean-source income obtained by individuals or entities that are neither domiciled nor tax resident in Chile; and (ii) certain payments made from Chile to such individuals. Unlike the global complementary tax, this is a withholding tax, so payers must withhold, file and pay it. Also, it is generally applied to the gross income remitted with no deductions.

  Payers must file and pay the additional tax within 12 days from the month following the month when the taxable income is paid, remitted, distributed or made available to the non-tax resident recipient.

  The general tax rate is 35%; however, if certain conditions are met, reduced rates may apply. In addition, the DTA s subscribed by Chile may provide a tax reduction or waiver in the source country for certain payments

3.1.4. Specific considerations regarding transactions with related companies:

- **Transfer pricing:** Chilean law on transfer pricing is mostly in line with the OECD guidelines. Chilean rules are based on the arm's length principle or principle of fair market value, under which crossborder transactions between related parties must be at regular market prices, values or yields, i.e., they should be consistent with those agreed or established between non-related independent parties in similar transactions and circumstances.

If the SII considers that the taxpayer has not proven that a transaction complies with the principle of fair market value and transfer pricing rules, it will determine its arm's length value.

If, as a result of applying transfer pricing rules, the SII identifies a discrepancy between the declared value and the specified regular market value, a single tax of 40% payable by the Chilean company will be levied on the difference. In addition, taxpayers that fail to provide the requested documentation properly and within the established deadlines will be fined 5% of the value of the identified discrepancy.

- **Thin capitalization rules:** Article 41 F of the LIR sets out a specific tax regime for payments by taxpayers domiciled or resident in Chile of interest, fees, services and any other conventional surcharge for loans, debt instruments and other transactions and contracts with related parties abroad that are subject to an additional tax rate below 35%, or not subject to additional tax at all, on the excess debt determined at the close of every financial year. These payments are taxed with a single tax of 35% on the excess debt portion.

  For these purposes, the tax authorities will consider excess indebtedness if the taxpayer's total annual debt exceeds the 3:1 debt-to-equity ratio at the end of the year in which interest and payment of other items provided in the new thin capitalization rules are due. Excess indebtedness is calculated separately for each entity.

  Exceptionally, excess debt tax does not apply to project financing in Chile, if certain requirements are met.

3.2. Capital gains tax

Generally, capital gains are considered ordinary income, i.e., subject to IDPC and final taxes. However, if certain LIR requirements are met, there are specific capital gains that qualify as non-taxable income.

3.2.1. Capital gains (i.e., the increased value) for the transfer of shares and corporate rights not provided in article 107 LIR:

This is taxable income, except for disposals made by individuals to non-related parties, in which case there is a non-taxable income of approximately EUR 8,000.

3.2.2. Capital gains for the transfer of securities listed in article 107 LIR:

The LIR establishes a single income tax of 10% on capital gains obtained from the transfer of (i) shares in open public limited companies; (ii) investment fund units; and (iii) mutual fund units, provided the legal requirements are me.

Institutional investors, whether residents in Chile or abroad, are not subject to the above tax.

3.2.3. Indirect sale:

The indirect sale of underlying assets located in Chile is subject to a 35% additional tax. Therefore, income obtained by a nonresident seller or not domiciled in Chile from the transfer of foreign company shares will be taxed in Chile, provided the requirements set out in the LIT are met.

Taxation of indirect sales does not apply if the transfer is made within the context of a corporate restructuring transaction, and there is no taxable increased value or gain according to the mechanisms provided by the rules on indirect sales.

3.3. Value-added tax ("VAT")

VAT is payable monthly. The tax rate is 19%, and it is levied on all regular sales of movable and immovable assets and on certain services used or provided in Chile, unless expressly exempted under the VAT Act, *e.g.,* export of goods and certain services.

VAT is specially levied on (i) imports, where VAT accrues when the import is legally completed, regardless of whether the taxpayer is a recurring taxpayer and regardless of the import involving capital goods or realizable assets; and on (ii) the assignment or temporary licensing of brands, invention patents, industrial procedures or formulas and other similar payments.

The VAT paid gives the taxpayer a tax credit equivalent to the tax charged on the invoices received for the purchase of goods, contracting services or, where applicable, the VAT paid on imports, provided the taxpayer carries out, in turn, VAT transactions.

When taxpayers make a sale or provide a service subject to VAT, the output VAT is a tax liability (tax debt) that can be credited against the outstanding tax credit in every tax period.

When output VAT ("**tax debt**") exceeds input VAT ("**tax credit**") in a tax period, the difference is the amount that the taxpayer must report and pay for that period. However, when the tax credit exceeds the tax debt, the outstanding amount can be allocated to the following tax periods until it is fully used, without time limits.

3.3.1. Early VAT refund for acquisition of fixed assets:

Article 27 bis of the Chilean VAT Act provides a mechanism for recovering the tax credit accrued by VAT taxpayers for acquisition of fixed assets

that allows, if certain requirements are met, for either (i) offsetting the outstanding amount against any payable taxes; or (ii) claim a cash refund.

Please note that a taxpayer that has received the refund through this mechanism must reimburse the tax authorities if it subsequently notifies the end of business or carries out VAT-exempt activities in any of the following tax periods.

3.3.2. VAT on digital services:

Taxpayers not domiciled or nonresident in Chile that provide digital services to individuals or legal persons in the country not subject to VAT will be subject to this tax.

To help fulfill their tax obligations, the SII has made available a simplified registration and payment system. If they do not apply the simplified regime, the SII may include them in a list of taxpayers whose VAT will be withheld by banks and other payment institutions.

3.4. Stamp duty (*Impuesto sobre timbres y estampillas*, "ITE")

The ITE Act taxes bills of exchange, orders of payment, promissory notes, simple or documentary credits and any other document containing a "money credit transaction," meaning one of the parties loans or undertakes to loan a sum of money and the other to pay it back at another time.

The ITE rate is 0.066% on the amount of the transaction for every month or fraction of a month between issuance and maturity of the document, capped at 0.8%. Demand instruments and those without a maturity date are subject to a 0.332% .

As for documents issued abroad, money lending transactions will be subject to ITE, even if there is no document recording the transaction, as long as the transaction is booked in the accounts in Chile.

3.5. Municipal tax

Under the Chilean Municipal Income Act, the municipal tax applies to anyone starting a business or commercial activity in a municipality. Each town council sets the tax rate, which ranges between 0.0025 and 0.005 of the taxpayer's tax equity (i.e., assets minus liabilities, both at tax value). This amount cannot be below 1 monthly tax unit (*Unidad tributaria mensual*, "**UTM**") (approximately EUR 67) nor exceed 8,000 UTMs (approximately EUR 535,000). The municipal tax is set for a 12-month period

3.6. Territorial tax

The territorial or real estate tax is levied on ownership of real estate at a rate that ranges between 1% and 1.4% of the appraised value. This tax is payable in four installments over the year and indexed to inflation every six months.

3.7. Specific mining tax or "mining royalty"

On January 1, 2024, the mining royalty entered into force. This is a specific tax imposed on individuals and legal persons extracting and selling concession minerals in any productive state in which they are located ("**mining operators**").

The mining royalty is based on a formula made up of: (i) an *ad valorem* value determined by applying a rate of 1% on the total annual copper sales of mining operators whose annual sales exceed 50,000 metric tons of fine copper; and (ii) a value calculated on the adjusted mining operational taxable income, which has different rates depending on the volume of fine copper sales and the mining operating margin of the mining operators.

The law establishes a maximum potential tax burden of 46.5% of the adjusted mining operational taxable income. For mining operators whose sales do not exceed 80,000 metric tons of fine copper, the maximum potential tax burden is 45.5%.

3.8. General anti-avoidance rule ("GAAR")

The Chilean Tax Reform Act established a new general anti-avoidance rule, granting the SII extensive powers to assess and tax certain transactions qualifying as tax avoidance structures.

The purpose of the GAAR is to ensure compliance with tax regulations through the powers granted to the SII to ensure correct tax payment in case the taxpayer's transactions (whether individually or together) can be considered:

- **abuse of law:** i.e., fully or partially circumventing the taxable event provided in the law; reducing the applicable tax base; or delaying enforceability of the tax obligation through acts or transactions that individually or together have no significant legal or financial results or effect for the taxpayer or third parties, other than the strictly tax-related purposes; or
- **concealment:** i.e., acts and transactions aimed at concealing a taxable event or the nature of the elements giving rise to a tax obligation, a tax payment; or the date on which a tax obligation arises.

Abuse of law or tax concealment must be declared by a tax court through a procedure governed by the Tax Code.

3.9. Double taxation agreements ("DTAs")

Chile has entered into many DTAs that remain in force, mostly based on the OECD Model Convention, promoting cooperation between the tax authorities of the contracting States to avoid double taxation.

4

Labor and employment

Labor relations between employers and employees are governed by the Labor Code and supplementary laws

4.1. General hiring characteristics

Labor relations between employers and employees are governed by the Labor Code and supplementary laws.

An individual employment contract is a mutually binding agreement between an employer and an employee. The latter is required to provide personal services under the supervision of and subordinate to the employer, who is required to pay a specific remuneration for those services. Employment contracts are classified according to their term and duration as follows:

4.1.1. Fixed-term contract:

A fixed-term employment contract has a specific duration that may not exceed one year or two years for managers or persons holding a professional or technical qualification granted by a State-recognized higher education institution.

This type of employment contract is subject to one-time renewal, either for the same or a different period, provided that the total duration of the contract does not exceed the maximum period mentioned above.

The law provides different scenarios in which a fixed-term contract becomes indefinite, namely:

- The employer knowingly allows the employee to continue providing services after the agreed termination date;
- The employment contract exceeds the periods specified in the law above;
- The employment contract is renewed a second time; or
- The employee has provided discontinuous services for the same employer under more than two fixed-term contracts for 12 months or more, within an overall period of 15 months.

4.1.2. Permanent employment contract:

The employment contract in which the parties agree to an indefinite term, without establishing the duration of the employment relationship.

4.1.3. Specific job or task contract:

An employment contract under which an employee agrees to carry out specific and defined material or intellectual work, with specified start and end dates, and which remains in force only during that time. It should be noted that the different tasks or stages cannot be the subject of two or more successive contracts of this type, in which case, for all relevant legal purposes, the contract will be deemed indefinite.

4.2. Possibility of outsourcing

4.2.1. Requirements:

Outsourcing is subject to the following requirements:

- An employment contract between a worker (the contractor) and an employer known as a contractor or subcontractor executing works or performing services, at its own risk and with its own workers, for a third party.
- That third party, whether an individual or legal person, is known as the main company and the owner of the work, company or task for which the contracted work or service is performed.
- There must be a commercial or non-labor contractual agreement between the main company and the contractor, under which the contractor is required to perform work or provide services for the main company.
- The work or the services must be carried out by the contractor's employees.
- The services provided must be habitually continuous, i.e., permanent or regular, not sporadic or seasonal.

4.2.2. Main company liability:

- **Joint and several liability:** The main company and the contractor will be jointly and severally liable for employee-related labor and social security obligations that apply to contractors and subcontractors, where appropriate, including any legal severance pay at the end of the employment relationship.
- **Subsidiary liability:** The main company or the contractor, as applicable, will be subsidiarily liable for employee-related labor and social security obligations that apply to contractors and subcontractors when
  - The main company guarantees the right to information regarding the sum and compliance with the contractor company employee labor and social security obligations and, if compliance is not confirmed, it exercises the retention right. The same will apply to contracting companies, which must exercise the right of information and retention, if applicable, with respect to subcontracting companies.
  - The main company or the contractor have been notified by the labor authorities of a breach of employee labor and social security obligations, if any, and have effectively exercised the right of retention.

4.3. Remuneration

4.3.1. Minimum wage:

Every worker is entitled to a minimum wage or basic salary, which is the mandatory fixed remuneration that the worker receives for providing services during an ordinary working day. From July 2024, the gross monthly minimum wage is CLP $500,000 (approximately USD 530).

4.3.2. Legal bonuses:

The law establishes that the bonus is an annual benefit and must be paid to employees every year in April if the company has obtained profits, with a ratio of no less than 30% of the profits or liquidity surpluses in its business (article 47 of the Labor Code).

For the employer to be required to pay the legal bonus, all the following requirements must be fulfilled simultaneously:

- It is a mining, industrial, commercial, agricultural or any other establishment pursuing a profit or a cooperative;
- It must keep accounting books; and
- It must obtain profits or liquidity surpluses in the annual period, under the terms of article 48 of the Labor Code.

Despite the foregoing, article 50 of the Labor Code provides an exception, giving the employer the possibility of paying its employees 25% of the bonus accrued in the business year as monthly remuneration. In that case, it will be exempted from the obligation established in article 47, regardless of the liquid profits obtained. Each worker's bonus will not exceed four and three-quarters minimum monthly income. To determine the 25%, monthly remuneration will be adjusted according to its percentage variation in the business year.

4.4. Vacation

4.4.1. Annual holidays:

Employees with more than one year of service are entitled to an annual fully paid vacation of 15 business days (from Monday to Friday). Those working in the Magallanes Region and Chilean Antarctica, in the Eleventh Region of Aysén of General Carlos Ibanez del Campo, and in the Province of Palena will be entitled to an annual holiday of 20 business days.

Workers providing continuous services to the same employer under the same conditions with two or more contracts for a specific work or for work that exceeds a year will have the same right to annual vacation. However, and only for these purposes, the worker can choose payment, in proportion for deferred holidays under the conditions stated, in the end of contract settlement. If the contract does not exceed one year, and the employee has deferred the payment of the holidays, the employer must pay all the accrued holidays with the last salary paid.

The annual paid vacation will be granted preferably in the spring or summer, taking into account the needs of the service concerned.

Vacation must be uninterrupted, and only the excess over ten business days may split by mutual agreement or accumulated, but only for up to two consecutive periods.

4.4.2. Progressive holiday:

Employees who have worked for ten years for one or more employers, whether continuously or not, will be entitled to an additional day for every three new years worked, and this excess will be subject to individual and collective bargaining. However, only ten years of work for previous employers may be considered.

4.4.3. Collective holiday:

The employer has the power to unilaterally close its establishments during its employees' annual holiday. This can apply to all the staff or only to a section for a certain period, especially in times or seasons of low productivity, as is the case of seasonal workers.

4.4.4. Compensation of overtime for holidays:

The new Law Nº 21.561, also known as the 40-hour Act, provides for the possibility of compensating overtime with additional holidays, up to a maximum of five days during the year, subject to prior agreement between the parties.

4.4.5. Preferential holiday:

Act Nº 21.645, the Act on work, family and personal life balance, provides a preferential holiday during the school vacation scheduled by the Ministry of Education according to the school calendar for parents of a child under 14 years of age or an adolescent under 18 with a disability or in a situation of severe or moderate dependency, over other workers without such obligations.

4.5. Ordinary working day

Currently, the ordinary working day is provided by the Labor Code for all employees, with some exceptions. It is a maximum of 44 hours per week, which will gradually decrease until 2028, when it will reach 40 hours per week. Time can be distributed in each calendar week or based on weekly averages over periods of up to four weeks, while complying with the other requirements established by law.

The hours cannot be distributed over more than six days or less than five, and in no case may the working day exceed ten hours.

The start of the working day can be modified for parents of children up to the age of 12 and for those who take care of them, who will be entitled to a two-hour period to advance or delay the start of their work by up to one hour, which will also determine the time they can leave work that day.

4.5.1. Overtime:

Daily overtime is limited to two hours, and the weekly maximum is 12 hours, provided the weekly work schedule can be distributed over a maximum of six business days. The labor authorities have established a maximum of 7 hours of work plus 30 minutes of overtime on Saturdays. The overtime worked from Monday to Friday must be added to these 30 minutes so that it will not exceed the weekly limit of 12 hours of overtime.

Overtime can only be agreed to meet the company's temporary needs or situation, in writing and the agreement is valid for no more than three months. They can also be renewed by agreement between the parties. However, in the absence of a written agreement, excess hours worked will be considered overtime if the employer is aware of it.

Overtime will be paid at a surcharge of 50% on the agreed salary for the regular working day and must be settled and paid together with the ordinary remuneration for the period.

Also, the new 40-hour Act allows workers to request additional rest days as compensation for overtime.

4.6. Unemployment insurance

The Unemployment Fund Administrator (*Administradora de Fondos de Cesantía*, "**AFC**") provides insurance that protects all employees with an indefinite or fixed-term contract and those with a specific job or service contract, if these jobs are governed by the Labor Code.

Every employee registered with the AFC has an individual unemployment account to which the employer must contribute 3% of the taxable monthly wages paid to the employee. This contribution is mandatory for the employee and the employer in different percentages, depending on the type of contract.

4.7. Telecommuting

The law that regulates remote work and telecommuting entered into force on April 1, 2020. Employment contracts governed by this law must include the following:

- Express indication that the parties have agreed to remote work or teleworking, specifying whether it will be full-time or part-time work and, in the latter case, the formula for combining on-site and remote work or teleworking;
- Location(s) where the services will be provided.
- The term of the remote work or teleworking agreement, which can be indefinite or for a specific time;
- The supervision or control mechanisms that the employer will apply with respect to the services agreed with the employee;
- The fact that it has been agreed that remote workers may distribute working hours as it best suits their needs or that they are excluded from the limitation on working hours, provided that it complies with the working day exclusions provided in article 22 of the Labor Code.
- Time of disconnection from work and health and safety conditions in the place where the services are provided.

4.8. Social security contributions

Healthcare and pension contributions are the employer's responsibility, who must deduct the following from the employee's gross salary:

- 10% for pension contribution
- 7% for healthcare coverage
- 2.21% for disability and survival insurance, which covers employees in case of disability or death
- 3% earmarked for AFC for employment loss insurance

4.9. Termination of the employment contract

4.9.1. Grounds:

The grounds for termination of an employment contract are set out in articles 159, 160, 161 and 163 bis of the Labor Code and are as follows:

- Article 159 provides grounds such as mutual agreement, resignation of the worker with notice, death, termination of the term of the contract or the work that originated it and force majeure.
- Article 160 concerns dismissals for serious misconduct by the employee, such as lack of integrity, sexual harassment, acts of violence, insults, immoral conduct, prohibited negotiations, unwarranted non-attendance, abandonment of work, actions risky to the safety or operation of the company and intentional damage to the company's property.
- Article 161 provides for dismissal due to company needs such as restructuring or economic changes and eviction of the employee.
- Finally, article 163 bis establishes as grounds for termination of the employment contract the employer being subject to insolvency proceedings for liquidation.

It is important to bear in mind that article 161 bis clarifies that the employee's disability is not a fair cause for the termination of the contract and guarantees compensation, if applicable.

4.9.2. Compensation system for termination of an employment contract:

As a rule, when an employment contract is terminated, any amounts owed due to termination must be paid as determined in the final settlement document (*finiquito*).

Some of those payments at the end of the employment relationship include:

- **Outstanding remuneration** for days worked in the month in which the contract ends, if any.
- **Accrued vacation time** compensation for the time between the hiring date or the date of the last work anniversary and the date of termination of employment.
- **Length of service indemnity** compensation for every continuous year of service and portion over six months to the same employer if it has ended due to any of the causes set out under article 161 of the Labor Code, i.e., the needs of the company, establishment or service, or written employer eviction. This compensation is capped as established in article 172 of the Labor Code, i.e. a maximum of 11 years of service and up to a monthly of 90 Development Units (*Unidades de fomento*, "**UF**") to calculate the compensation.

- **Indemnity in lieu of notice** compensation if the dismissal is due to any reason set out under article 161 without at least a 30-day notice to the employee.

4.10. Other legal obligations

In addition to the above, Chilean legislation provides specific obligations based on the number of company employees:

- **Joint committee on hygiene and safety:** Mandatory for companies with more than 25 workers and seeks to prevent occupational risks. If there is more than one work site or project, it must be set up at each work center.
- **Risk prevention department:** Mandatory for mining, industrial and commercial companies employing more than 100 workers and will be headed by a prevention expert who will be part, in its own right, of the joint committees.
- **Bipartite training committee:** Mandatory for companies with 15 or more employees. Its main functions are determining and evaluating the company's occupational training programs and advising management on training matters.
- **Psycho-social risk implementation committee:** Mandatory for companies with ten or more employees. It must include the same number of employees and company representatives, with a minimum of four and a maximum of ten members.

5

Public procurement

The forms of public procurement are framework agreements, public tenders, private tenders and direct awards

5.1. Legal framework and forms of public procurement

Act Nº 19.886 on Administrative Contracts for the Supply and Provision of Services or Purchasing Act ("***Ley de Compras***") and its regulations (Decree Nº 250 of 2004) set out the rules that govern the State's contracting for the supply of goods and services to perform its functions. They govern most of the State's acquisitions and contracting services, except for those exceptions provided in the same regulation and which refer to specific sectors. In November 2023, Law Nº 21.634, introducing significant changes aimed at modernizing the purchasing system, promoting transparency and competitiveness in bidding processes, was enacted.

There are different ways of contracting with the State: framework agreements, public tenders, private tenders and direct awards. In general, when deciding to contract goods or services, State agencies must do so under the terms of the framework agreement in force, if any. These agreements are tendered and awarded to one or more suppliers by the Purchasing and Public Procurement Department on a regular basis. Goods, services and suppliers available under a framework agreement are registered in a catalog published by management in the transactional platform.

In the absence of a framework agreement in force for the acquisition of the requested good or service, the contracting public entity must, as a rule, conduct a public tender process. Public tendering is an open administrative procedure, processed according to the rules established by the authorities, under which bidders submit their proposals, and the most beneficial for the State is awarded. It is the most widely used public procurement mechanism. Private tendering and direct dealing are exceptional in certain circumstances, such as where there are no public tender bidders or where procurement is urgently required.

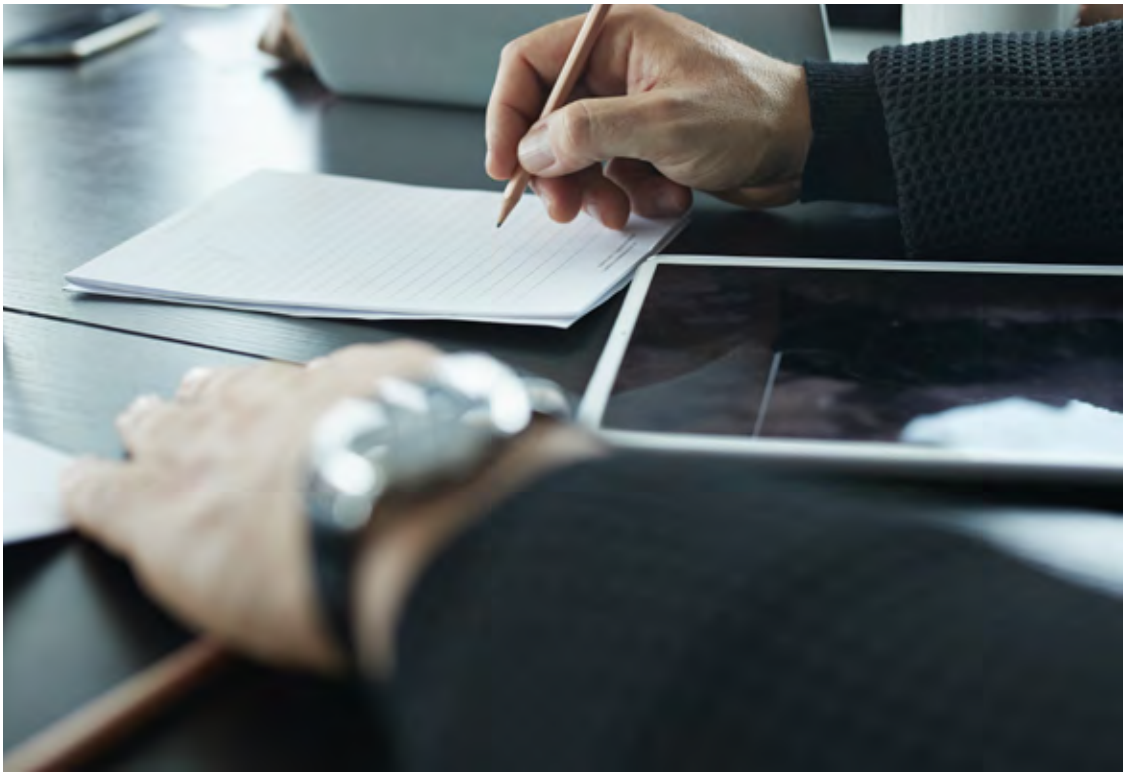
Regardless of the form of contracting, purchases of goods and services over a certain amount are formalized by signing a contract.

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership, known as TPP-11, entered into force in February 2023. It represents 13.5% of the world's GDP and covers public procurement. The TPP-11:

- Guarantees equitable access to public procurement markets of member countries;
- Promotes transparency in public procurement by requiring member countries to publish detailed information on their tender procedures;
- Establishes clear rules and efficient procedures for submitting and assessing bids, as well as complaint and dispute settlement mechanisms; and
- Includes specific provisions to prevent and combat corruption in public procurement.

5.2. National supplier registry

ChileCompra is an official electronic registry of State contractors. All Chilean and foreign individuals and legal persons that have not been barred from contracting with State agencies can be entered into the Registry, whose purpose is registering and certifying past activities, contracting history, legal and financial situation, technical suitability, as well as any situation precluding entering into contracts with the State.



Chilean and foreign individuals and legal persons that have not been barred from contracting with State agencies can be entered into the official electronic registry of State contractors

5.3. Transactional platform for state procurement - Public market

ChileCompra manages a transactional platform (www.mercadopublico.cl), in which public entities carry out the process of acquiring and contracting for the supply of goods, services and works. They must use this platform to price, tender, contract, award, request dispatches and, in general, carry out all their processes for acquiring and contracting for goods, services and works. This platform can be checked for supplier profiles, terms under which each service was tendered and awarded, as well as the contract performance status.

5.4. Public Procurement Court

The Public Procurement Court ("**PPC**")is a specialized court, established under the Purchasing Act, that hears actions to challenge illegal or arbitrary acts or omissions in administrative procurement proceedings with public bodies under that Act . Appeals can be filed against any unlawful or arbitrary acts or omissions carried out between (i) approval of the terms and conditions of tender; and (ii) the award of the contract, both inclusive. Any person with a vested interest in the procedure is entitled to file the appeal.

From December 2024, the PPC will also have jurisdiction to hear illegal and arbitrated actions verified during the performance of the contract. Its final judgment can be challenged before the Court of Appeals of Santiago.

6 Dispute resolution: Arbitration

The use of arbitration as a method of dispute resolution has increased significantly in Chile in recent decades. This increase has been further boosted since 2004 with the adoption of Act Nº 19.971 on International Commercial Arbitration (*Ley sobre Arbitraje Commercial e Internacional*, "**LACI**") based on the Model Law of the United Nations Commission on International Trade Law ("**UNCITRAL**").

The use of arbitration has increased significantly in Chile in recent decades

6.1. Domestic and international arbitration

Chilean law recognizes both national and international arbitration. The regulation of arbitration in Chile is known as a dual system, i.e., domestic and international arbitration are governed by different regulatory bodies.

Domestic arbitration is regulated by the Organic Code of Courts (articles 222 to 243) and the Code of Civil Procedure (articles 628 to 644).

On September 1, 2023, the Rules of Procedure for National Arbitration of the Arbitration and Mediation Center of the Chamber of Commerce of Santiago (one of the main regulations of institutional arbitration in Chile) were amended. In particular, "emergency arbitration" provisions were introduced, with the aim of providing the parties with a prompt and effective solution to situations requiring urgent action before setting up the arbitral tribunal. They allow the parties to request preliminary relief from both the Arbitration and Mediation Center ("**CAM**") of Santiago and before the ordinary courts of justice through a faster procedure for appointing the emergency arbitrator and issuing provisional measures. However, these new provisions do not apply to arbitrations initiated under the International Arbitration Rules.

International Arbitration is regulated by LACI.

Under the LACI, arbitration is international if:

- The parties to an arbitration agreement are established in different States when the agreement is reached; or
- One of the following is located outside the State in which the parties have their establishments:
  - The place of arbitration, if it has been determined in the arbitration agreement or under the arbitration agreement; or
  - The place of fulfillment of a substantial part of the obligations of the commercial relationship or the place with which the object of the dispute has a closer relationship.

- The parties have expressly agreed that the matter that is the subject of the arbitration agreement involves more than one State.

The LACI expressly recognizes the autonomous will of the parties, allowing them to classify a particular arbitration process as international.

Chile is a member of the New York Convention, the Panama Convention and the ICSID Convention

Chile has ratified other international regulatory bodies that may have an impact on the regulation of arbitration such as the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Inter-American Convention on International Commercial Arbitration, also known as the Panama Convention.

Chile is a member of the 1965 Convention on the Settlement of Investment Disputes ("**ICSID Convention**"); therefore, under certain conditions, ICSID arbitration can be applied with foreign investors.

6.2. *Ad hoc* and institutional arbitration

Arbitration can be institutional or *ad hoc*. Institutional arbitration is handled by an institution that provides support both to the parties and the arbitrators during the course of the arbitration.

In this case, arbitration is governed by the regulations of the arbitration entity selected by the parties in the arbitration agreement.

However, in *ad hoc* arbitration, the parties choose not to go to an arbitration institution and leave the procedure mainly in the hands of the arbitration court.

They may (i) select an arbitration rule developed for non-administered arbitration, e.g., the Arbitration Rules of the United Nations Commission on International Trade Law ("**CNUDMI**"/ "**UNCITRAL**") or (ii) create their own.

In Chile, the main arbitration institutions are the Arbitration and Mediation Center of the Santiago Chamber of Commerce and the National Arbitration Center.

6.3. Judicial review

A distinction must be made between domestic and international arbitration with respect to judicial oversight of arbitration awards issued in Chile.

Domestic arbitration awards are subject to a wide range of remedies, with appeals and cassation being appropriate. However, the parties may either (i) submit the remedies to arbitration, to be heard by a second instance arbitral tribunal, or (ii) waive the available remedies, except appeals for cassation for the court's lack of jurisdiction and for ultra petita (granting more than requested to the parties), in addition to the appeal for complaint, given its disciplinary nature.

Only an appeal for annulment, established by the LACI, can be filed against international awards issued in Chile.

This appeal for annulment does not consist of raising the matter to a higher court to decide on the merits of the matter submitted to arbitration, but rather its purpose is the annulment of the arbitration award on certain specific grounds established in article 34 of the LACI:

- If one of the parties to the arbitration agreement were affected by a disability; the agreement were not valid under the law to which the parties have submitted it, or if nothing had been indicated in this regard, under the law of Chile.
- If one of the parties were duly notified of the appointment of an arbitrator or of the arbitration proceedings or had not been able to assert its rights for any other reason.
- If the award referred to a dispute were not covered by the arbitration agreement, or it included decisions that exceed the terms of the arbitration agreement. However, if the provisions of the award that refer to the issues submitted to arbitration could be separated from those that are not, only the latter could be annulled.
- If the composition of the arbitration court or procedure were not adjusted to the agreement between the parties, unless that agreement were in conflict with a provision of the LACI from which the parties could not deviate or, in the absence of such agreement, that did not comply with the LACI.
- If, under Chilean law, the object of the dispute were not subject to arbitration.
- If the award were contrary to public policy in Chile

6.4. Recognition and enforcement of international arbitral awards in Chile

To be recognized and enforced in Chile, all international arbitration awards must be approved through the *exequatur* process, which is an authorization granted by the Supreme Court for enforcement in Chile of judgments issued abroad.

Foreign arbitration awards in Chile will have the force attributed, first of all, to existing international treaties between Chile and the country where the arbitration award is issued. In the absence of a treaty, the award will have the same force given to Chilean arbitration decisions by the country where it originates. Finally, if it is not possible to prove reciprocity, the *exequatur* will be approved if (i) the award does not contain anything contrary to Chilean law, without considering procedural laws; (ii) the award does not oppose national jurisdiction; (iii) the party against whom the judgment is invoked was duly notified of the action; (iv) it is enforceable in the jurisdiction where it was pronounced.

6.5. Arbitration proceedings to which Chile is a party

Chile can be a party to investment arbitration and international commercial arbitration.

It has developed a strong negotiating policy in investment arbitration for agreements for promoting and protecting foreign investments and free trade agreements that include chapters on investments.

In most of these instruments, Chile has decided to apply friendly solutions as the first step in conflict resolution and subsequently offer the investor the option of a forum. The investor will be able to decide whether to submit the dispute to Chilean jurisdiction or to international arbitration. However, the applicable regulatory instruments in each specific case must always be analyzed.

Chile, its agencies, institutions and companies can submit any disputes arising from international contracts to foreign courts, including arbitration courts, if they meet the following requirements: (i) the contract must be international (the parties must be established in different countries or one of them must have its main center of business abroad); (ii) the State, its agencies, institutions or companies must participate; and (iii) the contract must be of an economic-financial nature.

6.6. Arbitration in public procurement

The Public Works Concession Act considers arbitration one of the possible dispute resolution mechanisms between the State and a contractor.

Disputes or claims that arise from the interpretation or application of the concession contract or its performance may be filed by the parties to an arbitration commission or to the Court of Appeals of Santiago.

Disputes of a technical or economic nature between the parties during the performance of the concession contract must be submitted for consideration of a technical panel at the request of any of the parties. The technical panel does not have jurisdiction and only issues a technical, well- founded recommendation that does not curtail the parties' power to submit the same dispute to an arbitration commission, but only when such matters have been previously submitted to a technical panel to obtain a recommendation.

The Ministry of Public Works may only file an appeal with the arbitration commission once the final launch of the works has been authorized, unless it requests the declaration of serious breach of the concession contract by the contractor, which can be requested at any time.

The arbitration commission must be made up of three university professionals, two of whom, at least, must be lawyers, and one must preside over the arbitration commission.

The arbitration commission will have the powers of an arbitrator with respect to the proceedings and will review the evidence under the rules of sound criticism, allowing any source, indication or background of evidence that, in the commission's opinion, can establish the substantial, pertinent and controversial facts of the case.

The arbitration commission will have 60 business days from the date the parties are summoned to issue a final judgment in accordance with the law, which will be justified and state the factual, legal, technical and economic considerations based on which the decision has been made. The final decision cannot be appealed.

7

Free market competition

Chilean regulations penalize actions that hinder free market competition and include a mandatory prior notification mechanism regarding certain business concentration transactions

7.1. Overview

The regulation of free market competition in Chile is essentially set out in Decree-Law Nº 211 of 1973 and its amendments ("**DL 211**"), and its main purpose is to promote and defend free market competition. DL 211 penalizes any event, action or agreement that may impede, restrict or hinder free market competition or that tends to produce such effects.

The main entities responsible for promoting and protecting free market competition are the Free Market Competition Defense Tribunal ("**TDLC**") and the National Economic Prosecutor's Office (*Fiscalía Nacional Económica*, "**FNE**").

7.1.1. TDLC:

The TDLC is an independent body, subject to the supervision of the Supreme Court. It is made up of five full members, three of whom, at least, must be lawyers and two must be graduates or have postgraduate degrees in economics, plus two alternates. The role of the TDLC is to prevent, correct and penalize any action against free market competition. It has the authority to hear both contentious and non-contentious matters, issue general instructions and rule on certain special appeals.

7.1.2. FNE:

The FNE is a decentralized, independent public service, subject to the supervision of the President of the Republic through the Ministry of Economy, Development and Reconstruction and headed by the National Economic Prosecutor.

As part of its role in the defense and promotion of free market competition, the FNE has the following powers:

- It is endowed with broad powers to investigate any events, actions and agreements that may prevent, restrict or hinder free market competition, or that may tend to produce such effects;
- It acts as a party representing the general interest before the TDLC and the courts of justice, and it may require the TDLC to exercise its authority;
- It signs out-of-court agreements with economic agents involved in its investigations to safeguard free market competition; and
- It supervises compliance with its resolutions and the judgments of the courts of justice with respect to free market matters.

7.2. Anticompetitive practice

Under article 3 and 3 bis of DL 211, any event, action or agreement that prevents, restricts or hinders free competition, or that tends to produce such effects, constitutes anticompetitive practice.

In addition to this generic offense, article 3 and 3 bis establish certain special cases of anticompetitive practices. We highlight the following:

7.2.1. Collusion:

In general, agreements between competitors that have the effect or potential effect of preventing, restricting or hindering free competition are considered especially harmful to market competition. In addition, Act Nº 21.595 on economic offenses defines this offense as a first-class economic offense.

Article 3 a) of DL 211 includes certain practices known as "hard cartels" that refer to anticompetitive agreements on price setting, limitation of production, allocation of zones or market shares, and distortion of bidding processes, and whose anticompetitive nature is independent of the parties' market power, their intention or the anticompetitive effects of the practice. This article also penalizes agreements or concerted practices that, by granting market power to competitors, consist of determining marketing conditions or excluding current or potential competitors.

7.2.2. Abuse of dominant position:

Article 3 b) of DL 211 penalizes the abusive exploitation by an economic agent, or a group of them, of a dominant position in the market, either by setting purchase or sale prices, imposing another product in a sale, assigning zones or market shares or imposing other similar abuses. The sanctioned conduct is the abuse of the dominant position, not the dominant position itself. There is no legal definition of what it means to have a dominant position or a pre-established threshold, so analysis is carried out on a case-by-case basis, depending on the market's characteristics.

7.2.3. Predatory practices and unfair competition:

Article 3 c) of DL 211 penalizes predatory practices and unfair competition intended to achieve, maintain or increase a dominant position.

Predatory practices are those that seek to eliminate a competitor or hinder the entry of a new one, *e.g.*, charging very low prices or below-cost pricing, to obtain or strengthen a dominant position in the future.

Unfair competition refers to any conduct contrary to good faith or good practices that, through illegitimate means, seeks to divert customers from a market agent, *e.g.*, misappropriation of the reputation of others and misleading advertising. Such conduct is regulated by Act Nº 20.169 on Unfair Competition.

7.2.4. Cross participation o interlocking:

Article 3(d) of DL 211 refers to the simultaneous participation of a person in executive or director positions in two or more competing companies, provided the business group of each of these companies has had an annual income over 100,000 UF (approximately USD 4,000,000) in the last calendar year.

Article 4 bis of DL 211 requires reporting to the FNE any acquisition of more than 10% of the capital of a competing company within 60 days, if the acquiring company, or its business group, and the company whose stake it acquires each have annual income greater than UF 100,000 (USD 4,000,000 approx.).

7.2.5. Procedural infringements related to the merger control regime:

Article 3 bis sets out several anticompetitive practices related to the merger control regime. First, it considers two aspects of a practice known as "gun jumping," consisting of (i) carrying out a merger operation, which must be notified to the FNE, without notifying it, and (ii) completing a merger transaction while its authorization by the FNE is pending. Furthermore, it considers anticompetitive conduct (i) breaching any of the measures approved by the FNE for a merger transaction; (ii) completing a merger transaction contrary to the provisions of the resolution or judgment prohibiting such transaction; and (iii) notifying the FNE of a merger transaction with false information to obtain its approval.

7.3. Penalties

If any breach of free market regulations is detected, the TDLC may impose the following penalties:

- Fines for the legal person and its directors, managers and any other party involved up to (i) 30% of the infringer's sales in the line of products or services associated with the infringement during the period of breach; (ii) twice the profit arising from the breach; and (iii) in neither the infringer's sales nor the profit obtained, 60,000 UTAs (approximately USD 50,000,000).
- Modification or termination of actions, contracts, covenants, systems or agreements contrary to the law may also be ordered, as well as the modification or dissolution of legal entities of private law participating in the action.
- In the case of cartels, the TDLC can order a ban on contracting with the State, as well as a ban on being awarded any concessions granted by the State.
- Practices that constitute cartels can also be penalized (imprisonment between 3 years and one day and 10 years), together with disqualification from holding executive positions. It should be noted that it provides a compensation for information procedure, which allows individuals who have

contributed additional information to the FNE to be exempted or have their fines for collusion reduced, under certain conditions.

The above does not preclude any action for compensation for damages the parties might initiate before the TDLC.

7.4. Merger control

DL 211 sets out mandatory prior notification to the FNE for certain concentration transactions that have effects in Chile.

7.4.1. Requirements:

This notification obligation is subject to two joint requirements:

- **Concentration under article 47 DL 211, i.e.**, any event, act or agreement, or a group of them, in which two or more independent economic agents that are not part of the same business group cease to be independent in any of their business areas through either (i) merger; (ii) acquisition of rights that grant decisive influence over the management of another company; (iii) association to create an independent and permanent economic agent; or (iv) acquisition of control over the assets of another.
- **Exceeding certain thresholds** defined by the FNE, although voluntary notification of transactions that do not exceed those thresholds is allowed. This means, in turn, fulfilling the following related requirements: (i) sales in Chile by the economic agents that plan to merge before the year notification is verified are equal to or greater than the threshold established by the resolution issued by the FNE (currently, UF 2,500,000 or approximately USD 101,000,000); and (ii) at least two of the economic agents planning to merge have individually generated sales in Chile equal to or greater than the threshold established by the resolution issued by the FNE (currently, UF 450,000 or approximately USD 18,300,000).

7.4.2. Procedure:

Decree-Law Nº 211 provides the possibility of ordinary, simplified notification if it meets the requirements under Decree Nº 41 of November 2, 2021 of the Ministry of Economy, Development and Tourism approving the regulation on notification of a concentration transaction. This regulation also provides the possibility of a very simplified notification for transactions in which the parties' activities do not overlap in any area.

Merger control procedure consists of a procedure of up to two stages, referred to below:

- **Stage one:** The FNE must issue a resolution within 30 business days after the beginning of an investigation, either by simply approving the transaction, approving it subject to certain conditions presented by the notifying party, or extending the investigation for 90 business days when it considers that the transaction could substantially reduce competition.

- **Stage two:** It involves extending stage one for another 90 business days. Once this additional period has elapsed, the FNE can approve the transaction (purely and simply, or subject to compliance with the conditions presented by the notifying party) or prohibit it. An appeal for review against this prohibition can be filed with the TDLC.

7.4.3. Effects:

Economic agents cannot complete mergers (which are suspended) until the final resolution or judgment ending the procedure has been issue.

7.4.4. Fines:

Disregarding this obligation to not complete a suspended merger reported to the FNE or the obligation to report a merger transaction carry the penalties established under section 7.3 above, regardless of the fact that, in the second case, the TDLC can impose fines of up to 20 UTA per day (approximately USD 17,000) the merger is delayed.

8

Public offering for acquisition of shares

Acquiring control over a public limited liability company in which a premium is paid to the controlling entity is subject to the regulations of the Securities Market Act on Public Offers for the Acquisition of Shares

8.1. Overview

A public offer for acquisition of shares (*Oferta pública de adquisición*, "**OPA**") is prepared to acquire shares in public limited liability companies, or securities convertible into shares, through which its shareholders receive an offer to acquire their shares under conditions that allow the offeror to obtain a certain percentage ownership of the issuing company, within a specified period.

8.2. Voluntary and mandatory OPA

The offer may be voluntary, if the offeror presents it without being legally required to do so, or mandatory if required by law.

The Securities Market Act describes cases in which an OPA is mandatory:

- When it allows obtaining control of a company;
- When, as a result of an acquisition, a company takes control of two-thirds or more of the capital of another one, an offer for the remaining shares must be made within 30 days of the previous offer (known as a "**secondary offering**"); and
- If the intention is to acquire control of a company that, in turn, controls another public limited company that represents 75% or more of the value of its consolidated assets, its shareholders must first receive an offer for an amount not less than the percentage that would allow control.

The following situations are exempt from a mandatory OPA:

- Acquisitions resulting from a capital increase consisting of first issue of shares which, because of their number, allow the buyer to get control of the issuing company;
- Acquisitions of shares that are sold by the company's majority stakeholder, provided (i) they are listed on a stock market; (ii) the price is paid in cash; and (iii) it is not substantially higher than the market price (for these purposes, a premium is deemed to exist if the price is 10% higher than the market price of the shares);
- Those that occur as a result of a merger;
- Acquisitions due to death; and
- Those originating from forced sales.

8.3. Restrictions on the offeror

In an OPA, the offeror must comply with certain requirements and restrictions imposed by Act Nº 18.045, namely:

- The OPA must involve all shareholders and must be irrevocable, but it may be subject to objective expiration conditions.
- If the number of acceptances exceeds the number of shares offered for acquisition, the offeror must buy them on a *pro rata* basis from each of the accepting shareholders.
- The OPA must be valid between 20 and 30 days, and for 30 days in cases specified by law, which can be extended only once for a period of between 5 and 15 days.
- The OPA can only be modified during the validity period to increase the number of shares offered or to improve the price offered, in which case the shareholders that have previously accepted the offer must benefit from the increase.
- Shareholders that agree to sell in an OPA can withdraw partially or fully during its validity period and recover all of their shares or a portion of them.
- During the offer's validity period, the offeror cannot acquire shares in the target company through private transactions or on national or foreign stock exchanges.
- If, within the 30 days prior to the actual date of the offer and up to 90 days after the OPA takes place, the offeror directly or indirectly acquires shares included in the offer under more beneficial price conditions, the shareholders that have sold their shares are entitled to demand the difference in price or the benefit in question, taking into consideration the highest value paid. In such cases, the offeror and the individuals who have benefited from acquiring shares under better conditions than those of the OPA will be jointly and severally liable for payment.
- A shareholder that has acquired control through the OPA cannot, within 12 months following the transaction date, acquire additional shares in the target company for an amount equal to or greater than 3% without making a public offering, and the unit price per share cannot be less than that paid in the takeover transaction.

8.4. Restrictions and obligations of the issuing company and its board of directors

The issuing company and its board of directors are prohibited from acquiring treasury shares and from other actions during the entire term of the OPA

Act Nº 18.045 provides that:

- During the entire validity period of the OPA, the issuing company and the members of its board of directors are prohibited from acquiring treasury shares, creating subsidiaries, disposing of assets that represent more than 5% of the company's total value, or increasing the issuing company's debt by more than 10% with respect to the debt before the start of the public offering. However, the Financial Market Commission ("**CMF**") may authorize, in a duly justified resolution, any of the above transactions, as long as they do not affect the normal course of the OPA.
- The issuing company must provide the offeror with an updated list of its shareholders within two business days from the start of the OPA.
- The directors of the issuing company must individually issue and make available to the public a written report containing their informed opinion regarding the advisability of the OPA for the shareholders.

9 Consumer protection

The relationship between suppliers and consumers of goods and services is regulated in Chile by Act Nº 19.496 on the Protection of Consumer Rights (*Ley sobre Protección de Derechos de los Consumidores*, "**LPDC**").

The Law on the Protection of Consumer Rights regulates the relationship between suppliers and consumers of goods and services, establishes a series of rights for consumers and regulates adhesion contracts to prevent suppliers from including abusive clauses

9.1. Consumer and supplier definitions

9.1.1. Consumers or users:

Individuals or legal persons that, under any onerous legal act, acquire, use or enjoy goods or services as the end recipients. Under no circumstances may suppliers be considered consumers.

For a person to be considered a consumer, an "act of consumption" must take place, and it must fulfill three requirements: (i) a payment is made (ii) within the context of a contract for which a good or service is received, and (iii) the good or service is acquired by the consumer as the end recipient.

9.1.2. Suppliers:

Individuals or legal persons, of a public or private nature, that habitually carry out production, manufacturing, import, construction, distribution or marketing activities involving the supply of goods or services to consumers, for which a price or fee is charged.

Individuals that have a professional degree and carry out their activity independently will not be considered suppliers.

The LPDC establishes that those who should be considered suppliers cannot be considered consumers. However, Act Nº 20.146, which sets out standards for smaller companies (the "**SME Statute**"), makes certain LPDC standards applicable to micro and small companies, including consumer rights and obligations, supplier obligations, adhesion contracts, liability for non-compliance, information and advertising.

9.2. Scope of the LPDC

Article 2 of the LPDC establishes its scope of application and lists the relationships to which it applies, including the following:

- Legal acts that are commercial in nature for the supplier and civil in nature for the consumer;
- Acts or contracts in which the supplier is required to provide the consumer or user with the use or enjoyment of real estate for specified, continuous or discontinuous periods not exceeding three months, provided that they are furnished and for the purpose of rest or tourism;

- Sale contracts for homes built by construction companies, realtors and by the Housing and Development Services, excluding construction quality;
- Contracts entered into or performed to obtain health care services, excluding health benefits; those regarding the quality of those services and their financing through health funds or insurance; those regarding accreditation and certification of public and private individual or institutional suppliers; and, in general, those regarding any other matter regulated by special laws.

9.3. Consumer rights and obligations

The LPDC establishes a set of rights and obligations for consumers. Below are the main ones:

- Freedom to choose goods or services (silence does not constitute acceptance);
- Accurate and timely information regarding the goods and services offered, their price, contract conditions and other relevant features, and the obligation to become responsibly informed;
- No arbitrary discrimination by suppliers of goods and services;
- Safety when consuming goods or services, protection of health and the environment and the obligation to avoid risks that may affect them;
- Adequate and timely repair and compensation for all material and moral damages in the event of breach of any of the obligations set out in the contract with the supplier, and the obligation to act in accordance with the means afforded by the law;
- Education for responsible consumption and the obligation to carry out consumer transactions with formal businesses; and
- Always being heard by the competent court under the LPDC.

The LPDC establishes that the consumer cannot waive these rights in advance.

9.4. Regulation of adhesion contracts

The LPDC provides the rules of fairness in the stipulations and fulfillment of adhesion contracts to prevent suppliers from including abusive clauses.

Although the LPDC does not define abusive clauses, it is understood that clauses are abusive when they can give rise to hidden damages to consumers in such a way that, if they had been aware of the possibility of damages, they would not have purchased the good or contracted the service.

The penalty for abusive clauses is their nullity.

The LPDC establishes specific grounds that constitute unfair clauses and a general rule.

In general, abusive clauses are considered those that are contrary to the requirements of good faith based on objective parameters and causing, to the detriment of the consumer, a significant imbalance in the rights and obligations that result from the contract between the parties. Without prejudice to this, unfair clauses are those that:

- Grant one of the parties the power to terminate or amend the contract at its sole discretion or to unilaterally suspend its performance;
- Establish price increases for services or surcharges, unless they relate to additional benefits that may be accepted or rejected in each case and that are specifically defined separately;
- Place on the consumer the burden of defects, omissions or administrative errors, when not responsible for them;
- Shift the burden of proof against the consumer;
- Contain full limitation of liability that may deprive the consumer of the right to compensation for defects that affect the usefulness or essential purpose of the product or service;
- Include blanks that have not been filled in or blocked off before the contract is signed; or

- Limit the remedies available to consumers to enforce their rights.

The LPDC also provides that ambiguous clauses in adhesion contracts will be interpreted in the consumer's favor, and where there are clauses that contradict each other, the clause or part of it that is more favorable to the consumer will prevail.

9.5. Liability for non-compliance and actions

Against breaches of the LPDC, consumers can submit complaints and file claims for any actions, omissions or behavior that affect the exercising of any of their rights.

These complaints or actions may seek to penalize the supplier responsible for the breach; cancel the abusive clauses included in adhesion contracts; obtain the performance of the unfulfilled obligation; stop the action that affects the exercise of consumer rights; or obtain compensation for damages or the appropriate remedy.

Filing complaints and actions can be done individually. Individual interests are those that exclusively promote the defense of the affected consumer's rights.

Exercising actions can also be done for the benefit of a group or the broad interests of consumers in general. Interests of consumers are those invoked to defend the common rights of a certain or ascertainable group of consumers linked to a supplier through a contractual relationship, while broad interests promote the defense of an undetermined group of consumers whose rights have been affected.

Complaints or actions in defense of individual interests may be filed, at the choice of the affected consumers, with the local police court with jurisdiction over their residence or the supplier's address.

Actions in defense of the interests of a group or broad interests of consumers in general can be filed by (i) the National Consumer Service; (ii) a consumers association; or (iii) a group of affected consumers with the same interest. These actions fall within the jurisdiction of the ordinary courts of justice, in accordance with the general rules of jurisdiction.

Decree Nº 84 of the Ministry of Economy, Development and Tourism, approving the regulations on mediation, conciliation and arbitration in consumer matters, was published in the Official Gazette on December 13, 2022. It provides that actions in defense of the individual interest of consumers may be resolved through alternative dispute resolution mechanisms such as arbitration, mediation and conciliation.

It also establishes that dispute resolution will be completely free of charge for consumers, and suppliers will have to cover all procedural costs.

9.6. The National Consumer Service

The National Consumer Service (*Servicio Nacional del Consumidor*,"**SERNAC**") is the agency responsible for ensuring compliance with the LPDC, providing information regarding consumer rights and obligations, and carrying out consumer information and education actions.

Its main functions include the following:

- Supervising compliance with the provisions of the LPDC and all consumer protection regulations;
- Interpreting administratively the consumer rights protection regulations it is responsible for monitoring, for which it regularly issues interpretative opinions and circulars that suppliers are suggested to review to learn whether their conduct or practice involves an infringement of the law and to anticipate the measures to be taken by SERNAC;
- Proposing the issue, amendment or repeal of legal and regulatory precepts when necessary to adequately protect consumer rights;
- Initiating actions to defend the interests of groups or the broad interests of consumers in general; and
- Preparing, publishing and promoting consumer information and education programs.

Among the SERNAC's obligations and powers is granting the SERNAC Seal to adhesion contracts by banks and financial institutions, commercial establishments, insurance companies, clearing houses,

To ensure that adhesion contracts comply with the law, the SERNAC grants the SERNAC Seal

savings and credit cooperatives and other suppliers of credit, insurance and, in general, any financial products.

The purpose of granting the SERNAC Seal is to ensure that these contracts comply with the law, that suppliers have customer service resources, and that the consumer is allowed to use an arbitrator or mediator to resolve financial disputes, in the event of not receiving a satisfactory solution from the financial supplier's customer service.

10 Environment

10.1. SEA and SEIA

The Environmental Assessment Service (*Servicio de Evaluación Ambiental*, "**SEA**") is the public body responsible for managing the Environmental Impact Assessment System (*Sistema de Evaluación de Impacto Ambiental*, "**SEIA**"), which evaluates projects and activities from an environmental protection viewpoint to determine, prior to implementation, whether they comply with current environmental legislation and they are responsible for potentially negative environmental impact. The SEA is regulated by the General Bases of the Environment Act Nº 19.300 (*Ley de Bases Generales del Medio Ambiente*, "**LBGMA**"), which guarantees the right to live in a pollution-free environment, the protection of the environment, the preservation of nature and the conservation of environmental heritage. The SEIA, for its part, is regulated by Supreme Decree Nº 40 of the Ministry of the Environment, which approves its regulation ("**DS 40**").

The whole system is permeated by the preventive principle, which means that certain projects or activities cannot be executed without first having an environmental assessment and obtaining an Environmental Rating Resolution (*Resolución de calificación ambiental*, "**RCA**") authorizing it, under the LBGMA. The RCA sets out the conditions, measures or regulations to execute the project or activity.

Article 10 of the LBGMA provides the projects or activities that may cause environmental impact must be registered in the SEIA. Article 4 of DS 40 lists such projects and activities that must be submitted to the SEIA for approval by means of an RCA, and will determine which environmental permits must be obtained prior to the start of the project. Amendments to these projects must also be submitted to the SEIA, provided that they are significant changes, in accordance with article 2, letter g) of DS 40. This does not prevent a holder from registering a project or activity voluntarily to the SEIA.

A favorable RCA proves that the project complies with environmental requirements, and indicates which environmental permits must be applied for to execute the project. However, these permits must be processed separately, once the RCA has been obtained, directly from the relevant State agencies. The RCA guarantees that these permits cannot be refused on environmental grounds.

In case of failure to register a project to the SEIA, the authorities can force the holder to do so, or, failing that, sanction it with fines of up to 10,000 UTAs for those projects or activities that should have been submitted to environmental assessment through an Environmental Impact Study (*Estudio de impacto ambiental,*"**EIA**"), 5,000 UTA for projects or activities that should have been submitted for environmental assessment by means of an Environmental Impact

Statement (*Declaración de impacto ambiental*, "**DIA**") or closure (with prior approval of the Environmental Court). In addition, circumvention of the SEIA was incorporated into Act Nº 21.595 on economic offenses.

10.2. DIA y EIA

The rule is that a project must be registered in the SEIA through a DIA, unless the project or activity generates any of the effects, characteristics or circumstances established in article 11 of the LBGMA, in which case it must be submitted to environmental assessment through an EIA.

Registering a project or activity to the SEIA is required to prove compliance with the regulations and obtain the necessary environmental authorizations. In the case of EIA, it can determine whether a project or activity is liable for any significant impact it generates by applying appropriate mitigation, repair or compensation measures.

After the evaluation process, the regional evaluation commission or the SEA's executive director, as appropriate for a regional or interregional project, will issue a project's environmental qualification. This RCA can be favorable to executing the project or activity or unfavorable, in which case the respective project or activity cannot be executed.

If an existing project or activity is modified, the LBGMA indicates that the environmental rating must be on the modification, not on the existing project or activity. However, the environmental impact assessment will consider the sum of the impacts caused by the modification and the existing project or activity for all relevant legal purposes.

10.2.1. Environmental impact study:

Article 11 of the LBGMA outlines the effects, characteristics and circumstances that, if a project generates them, will determine its submission to the SEIA via EIA, namely:

- Risk to the health of the population due to the quantity and quality of effluents, emissions or waste;
- Significant adverse effects on the quantity and quality of renewable natural resources, including soil, water and air;

- Resettlement of human communities or significant disruption of human group life systems and customs;
- Location in or near towns, resources and protected areas, priority conservation sites, protected wetlands, glaciers and valuable areas for astronomical observation for scientific research purposes that may be affected, as well as the environmental value of the area where it is meant to be located;
- Significant changes, in terms of magnitude or duration, to the landscape or tourist value of an area; and
- Changes to monuments, sites with anthropological, archeological, historical value and, in general, those belonging to the cultural heritage.

10.2.2. Environmental Impact Statement:

A DIA is submitted to the SEIA when the project does not generate or present any of the effects, characteristics or circumstances established in article 11 of the LBGMA.

10.2.3. Relevance consultation:

In case of doubt, the proponents of a project or activity may ask the SEA to decide whether, based on the background provided for that purpose, a particular project or its modification must be submitted to the SEIA.

10.2.4. Project splitting:

The LBGMA prohibits applicants from splitting up projects or activities in bad faith to (i) change the instrument for registration into the SEIA or (ii) avoid registering in the SEIA. This does not apply when the applicant proves that the project or activity will be carried out in stages, i.e., there must be a clear intention to avoid registering with the SEIA or modify the appropriate assessment instruments.

In case of split projects, the Superintendency of the Environment (*Superintendencia del medio ambiente*, "**SMA**") may initiate a sanctioning procedure and force the applicant, after a report from the SEA, to register the project or activity properly with the SEIA.

10.3. Sectoral environmental permits (*Permisos ambientales sectoriales*, "PAS") and other permits

Sectoral environmental permits are issued by a State administration body and are listed in DS 40. These are classified as:

10.3.1. Merely environmental permits:

A favorable RCA will order this permit be granted by the State environmental authorities under the conditions or requirements stated in it. It will be sufficient for the owner of the project or activity to show the RCA to the competent authorities for them to grant the permit without further processing. If the RCA is unfavorable, they will be obliged to refuse such permits. They are listed in articles 111 et seq. of DS 40.

10.3.2. Mixed permits:

These permits involve at least one other authority.

In this case, a favorable RCA certifies that the environmental requirements are met, so the State environmental authorities cannot deny the permits with the same requirements, nor impose new environmental conditions or requirements other than those established in the RCA. On the other hand, if the RCA is unfavorable, they must refuse the permits, even if the other requirements are met, until they are notified of a favorable ruling. They are listed in articles 131 et seq. of DS 40.

In addition, there are other non-environmental permits that must be applied for to develop the project, regardless of the application before the SEA, e.g., those applied to the municipality, autonomous bodies or other authorities.

To obtain these permits, the usual practice is to hire environmental consultants, which list the health, construction and environmental permits, among others, that must be obtained for a project and handle them together with the project owner.

11 Electricity sector

11.1. Overview

11.1.1. Regulatory framework and public bodies:

Electricity in Chile is governed mainly by the General Law on Electrical Services (Ley General de Servicios Eléctricos, "LGSE") of Decree-Law Nº 4/20.018 of 2007; Supreme Decree Nº 327 regulating the LGSE; and Act Nº 18.410 establishing the Superintendency of Electricity and Fuel.

These are the most relevant public authorities involved:

- **Ministry of Energy:** It is responsible for formulating and coordinating plans, policies and standards for smooth operation and development of the sector, ensuring compliance with them and advising the government on all matters related to the energy sector.
- **National Energy Commission:** It is a public decentralized body responsible for analyzing prices, tariffs and technical standards governing electricity companies. Its main objective is to have sufficient, safe and quality services compatible with the most economical option.
- **Superintendency of Electricity and Fuels:** Its purpose is to oversee and closely monitor compliance with legal provisions, regulations and technical standards on the generation, production, storage, transport and distribution of liquid fuels, gas and electricity.
- **Chilean Commission on Nuclear Energy:** It is an autonomous government body whose functions include addressing the peaceful uses of atomic energy, regulating and controlling the country's nuclear and radioactive facilities, and advising the government on matters related to nuclear energy.
- **National Electricity Coordinator:** It is an independent technical body responsible for coordinating the operation of the interconnected installations of the National Electricity System.
- **Panel of Experts:** It is an autonomous collegiate body whose function is to solve discrepancies and conflicts arising from enforcing electricity and gas legislation.

11.1.2. Chile's energy matrix:

Chile's energy matrix has changed since the end of the last century to the present, from a clear predominance of hydropower to diverse renewable energy sources, with a sharp increase in solar and wind energy in the last seven years.

Chile, as of January 5, 2023, had 38,243 registered kilometers of transmission lines, adding up national, zonal and dedicated lines. In 2022, gross electricity generation in the national electricity system reached a total of 83,245 GWh.

11.1.3. Market sectors. Generation, transmission and distribution:

- **Generation:** Unlike the transmission and distribution sectors in Chile, in which market access and pricing are heavily regulated because they are a monopoly and a public service, electricity generation is freely traded, with a diversity of participants and self-determination of tariffs through price setting typical of free supply and demand.

  Electricity generation in Chile comes 63% from renewable sources and 27% from conventional sources. For 2023, the most outstanding renewable sources of generation were hydropower with 28.4%, solar with 19.7% and wind power with 11.9%. Among conventional sources, natural gas with 18.9% and coal with 17.2% prevail.

  – Special regime: small means of generation

    Supreme Decree Nº 244 of 2005, later replaced by Decree Nº 88 of 2020, introduced the regulation for small-scale generation means, i.e., those with power surpluses below or equal to 9,000 kilowatts, which benefit from a price stabilization mechanism to encourage them and which has increased considerably in recent years.
    A distinction is made between:

  a. Small generation means or "**PMGs**": Small-scale generation facilities with a surplus of power supplied to the system below or equal to 9,000 kilowatts connected to facilities belonging to the national, zonal or dedicated transmission system, development poles or international interconnection facilities; and

  b. Small distributed generation means or "**PMGDs**": Small-scale generation means with a surplus of power supplied to the system below or equal to 9,000 kilowatts connected to the facilities of a distribution company or to a company that owns electricity distribution lines using national public goods

- **Transmission:** As established in the LGSE, transmission facilities are classified as national, zonal, dedicated, development and international transmission centers, where the first three are the most used:

  a. **National transmission:** The aim is to create a common electricity market, interconnecting the other transmission segments and consisting of lines and substations.

  b. **Zonal transmission:** These are lines and substations that allow the supply of regulated customers, limited territorially in distribution concession areas, without prejudice to the use by unregulated (free) customers or means of generation.

  c. **Dedicated transmission:** These are those radio lines and substations, which are available for supply to free customers or for the injection of generation means.

  National and zonal facilities are considered public electric services, as they play an essential role for regulated customers. Therefore, they are subject to planning processes for the expansion of these facilities, and new works or extensions associated with them are generally mandated through regulated processes. The final stage of these processes is the tender processes conducted by CEN, both for new and extension works. Expansion works increase the capacity, safety and quality of service of existing power lines and substations, and new works are understood to mean electrical lines or substations that do not exist and are

designed to increase the capacity, safety and quality of service of the electrical system.

- **Distribution:** In distribution, we find medium and low voltage networks, which carry energy from a substation to the end consumer. This part of the electricity market has clear features of a natural monopoly, so in Chile, it is necessary to have a concessional title to carry out this activity (unlike generation and transmission).

11.1.4. Electrical systems in Chile:

The Chilean electricity market consists of three independent systems:

a. **National Electricity System:** It connects most of Chile's territory, with an installed capacity of 35,091 MW as of June 2024.

b. **Aysén System:** It produces electricity to supply the Aysén region of General Carlos Ibanez del Campo. As of December 2022, it had a net installed capacity of 69.8 MW.

c. **Magellan System:** It produces electricity to supply the Magellan Region and Chilean Antarctica. As of March 2022, it had a net installed capacity of 129.3 MW.

11.1.5. Energy planning and transmission planning:

Every five years, the Ministry of Energy carries out a long-term energy planning process for the different energy scenarios for expansion of generation and consumption, within a horizon of at least 30 years.

It includes forecasts of energy supply and demand, in particular electricity, which can be updated annually by the Ministry in terms of demand forecast, macroeconomic scenarios and other background information.

In addition, as regards transmission, there is specific planning in which the Commission carries out a planning process every year considering at least a 20-year horizon. The planning covers the expansion works of national transmission facilities, development poles, zonal and dedicated areas used by public distribution service concessionaires to supply users subject to price regulation or necessary to deliver such supply, as appropriate.

Thus, every year, new works and extension works required to guarantee the public transmission service are determined and tendered.

11.2. Concession regime and electricity easements

Obtaining an electricity concession to carry out transmission or generation activities is not mandatory, so each developer freely decides whether to apply for the respective electricity concession, while it is necessary to have an electricity distribution concession.

Electricity concessions can only be granted to Chilean citizens and companies incorporated under the laws of the country (except for joint stock companies). They can be requested for the entire project or for a portion or section of it.

Generation concessions are granted for hydraulic power plants producing electricity. Transmission concessions are granted for electrical substations and electric power transmission lines. Distribution concessions are granted to establish, operate and exploit public service distribution facilities.

11.2.1. Rights over real estate and electricity easements:

Rights over real estate to install, build and operate facilities can be exercised by:

- Obtaining electricity easements imposed under an electricity concession by Supreme Decree of the Ministry of Energy, or
- Voluntary easements negotiated with each landowner.

11.2.2. Types of concessions:

- **Provisional concessions:** Their purpose is to study the works projects to benefit from the definitive concession. Obtaining them is not a prerequisite for the final concession, nor do they require it. The SEC grants them for two years, renewable for another two, although they are rare.
- **Definitive concessions:** Their purpose is to impose electrical easements on third-party properties for the installation of hydraulic power plants, substations or transmission lines, as appropriate, which may even be imposed against the landowner's will. The application for a final concession is submitted to the SEC with a copy for the Ministry of Energy, together with general plans of the works, an explanatory report, deadlines for the works, special plans for the easements to be imposed, and copies of the voluntary property easements in favor of the applicant, in addition to other formal elements. The final concessions is granted by supreme decree of the Ministry of Energy, by order of the President of the Republic.

In any case, it is important to bear in mind that imposing an easement must be compensated to the owner of the land, but if agreement on the applicable compensation is not reached, the concessionary may request the SEC to appoint one or more appraising committee. Once the concession decree has been issued, and the appraisal committee has completed the appraisal (on the understanding that both can proceed in parallel), the concessionaire can go ahead in taking possession of the land, for which it must request the appropriate authorization from the competent court (although opposition to the appraisal can be processed at the same time).

12

Compliance

A criminal compliance program can exempt the company from criminal liability

12.1. Overview

Compliance regulations in Chile are provided in Act Nº 20.393 on criminal liability of legal entities and Act Nº 19.913 establishing the Financial Analysis Unit and various provisions on money laundering.

12.2. Crime prevention (Act Nº 20.393)

Since 2009, Act Nº 20.393 on the criminal liability of legal entities provides that if an individual linked to a company commits an offense in the context of business in certain circumstances, the legal person may be criminally liable for the offense. Thus, if the offense ruled to exist, the company can be punished with large fines, prohibition from contracting with the State and even dissolution of the company in particularly serious cases.

The law sets out that legal entities can voluntarily implement a criminal compliance program called the "Crime Prevention Model," which may exempt the company from criminal liability if it meets the requirements established by law and there is proof that the program was actually implemented and disseminated.

A company can be punished with heavy fines, prohibition on contracting with the State and even dissolution of the company in particularly serious cases

This regulation was recently amended by Act Nº 21.595 on economic offenses, published in August 2023, which: (i) systematized, modified and created crimes of an economic and environmental nature; (ii) established a new regime with stricter consequences for individuals who commit crimes in a business context; and (iii) amended the criminal liability regime for legal entities, substantially expanding the list of offenses for which a company may be criminally liable.

Criminal liability of legal persons and individuals are independent of each other, and there is no objective criminal liability for holding a position. In other words, if a crime is committed within a company, executives can only be criminally liable to the extent that they have participated in committing the crime as perpetrators, accomplices or accessories to the crime.

Implementing PLAFT compliance programs is mandatory for different activities, including the financial, real estate, insurance, automotive, casino and fintec sectors

12.3. Prevention of money laundering and the financing of terrorism (Act Nº 19.913)

Under Act Nº 19.913, certain economic sectors are obliged to implement a system for the prevention of money laundering and financing of terrorism (the "**PLAFT**" or "**AML**" system) and comply with certain registration and due diligence obligations with clients, as well as reporting to the Chilean financial intelligence unit (*Unidad de Análisis Financiero*, "**UAF**"). This is to avoid the risk of being used to commit money-laundering and terrorist financing offenses, and to cooperate with the authorities in detecting and preventing such crimes.

Implementing these compliance programs is mandatory for different activities, including the financial, real estate, insurance, automotive, casino and fintec sectors. Article 3 of Act Nº 19.913 lists all sectors required to report to the UAF.

In case of non-compliance with the positive and negative duties imposed by these regulations or by the UAF, a company may be subject to administrative fines depending on the seriousness of non-compliance.

13

Mining

In Chile, minerals can be explored and exploited through concessions, which can be exploration or exploitation

In Chile, the State has absolute, exclusive, inalienable and imprescriptible control over all mines, including guano sites, metalliferous sands, salt pans, coal and hydrocarbon deposits and other fossil substances, except surface clays.

However, anyone is entitled to prospect and dig for mineral substances, as well as to apply for a mining concession for exploration or exploitation of substances as provided by law.

In Chile, minerals can be explored and exploited through concessions, which can be for exploration or exploitation.

13.1. Mining concession for exploration

This concession gives the holder exclusive powers to explore the eligible mineral substances within its limits.

The preference for the concession is determined by the date the application for the concession is filed. The application is called a petition if it is for exploration and a declaration if it is for exploitation. Therefore, while there may be several exploration concessions covering the same area, only one has the preference in this area.

Prior to January 1, 2024, mining exploration concessions had a duration of two years from the date of the final ruling establishing the concession, renewable for two more years if the holder gave up at least half of its surface area. From January 1, 2024, mining exploration concessions that will be granted for four years, renewable for the same period only once. However, to exercise this right, the holder must submit to the National Geology and Mining Service, (*Servicio Nacional de Geología y Minería*, "**SERNAGEOMIN**"), within the first six months of the last year of the mining concession, a report containing all the geological information obtained from the exploration works carried out during the term of the concession, thus proving that they have been carried out. Alternatively, the holder may submit documentation proving that it has obtained an RCA for the mining project during the concession period, or that the exploration project was admitted for processing by the SEIA.

Because of the amendments to the mining regulations, exploration concessions whose validity expires in 2024 will be deemed extended until December 31, 2024 and may exercise their right of extension for another four years within the first half of 2024.

Finally, the exploration concessions registered with the corresponding Mine Conservator that are in force, and that have not been extended on the date the legal amendment enters into force, will be understood set up for four years from the date of its constitution.

Also, before the term of a mining exploration concession expires, a mining concession for exploitation may be applied for by using

the preferential right of the original exploration concession, with the understanding that that the mining concession to be established in the future has been filed on the date the application was filed for all legal purposes. Therefore preference in the area will be maintained.

Finally, the holder of an exploration mining concession must pay an annual license every year in March. Their price has increased from one fiftieth to three fiftieth UTM per hectare.

13.2. Mining concession for exploitation

This mining concession gives the holder the exclusive right to explore and exploit the eligible substances within its limits and ownership of the extracted substances.

They have an indefinite duration, provided the holder pays the applicable annual license every year in March.

During 2024, mining concession licenses will maintain a one-time only rate of one tenth of UTM per full hectare, which was the rate applied before the amendments to the mining legislation. From 2025, they will be increased to four tenths UTM per hectare during the first five years of the concession, then gradually increasing to 12 UTM per hectare from year 31. Certain scenarios are established to qualify for a reduced license of one tenth UTM per hectare, such these concessions, without having started mining operations, being included in a mining development project that has obtained an RCA or has been admitted for processing by the SEIA, or mining concessionaires that demonstrate annually that they have started work for continuous development of mining operations. For small-scale mining, they must have belongings included in a project with permits pending under the Mining Safety Regulations.

Likewise, individuals, legal mining companies, cooperatives or individual companies with limited liability holding mining concessions with an extension of not more than 500 hectares may be eligible for a reduced license rate of one tenth UTM per hectare, carrying out work on at least one concession and proving to be up to date with payment of its concession licenses.

13.3. Prospecting and digging rights

Finally, Chilean legislation includes the right to prospect and dig, i.e., anyone can prospect and dig on lands of any domain to search for mineral substances, except for those that fall within the limits of another third-party mining concession.

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