CÁMARA
CHILENO BRITÁNICA
DE COMERCIO

Doing Business in Chile
Guide 2025

CORPORATE GOVERNANCE
&
SHAREHOLDER PROTECTION

Executive Summary

The internationalisation of Chilean companies, the sophistication and specialisation of markets, the fact that companies have an ever -growing number of shareholders and increasingly well-informed investors, and the corporate scandals that have shaken public opinion in recent years, have all radically changed the way of doing business in Chile.

The topic of Corporate Governance is not new, but for many years, Chile lagged Europe and other more developed markets in this area. But Chile has become increasingly aware of the importance of good Governance, recognizing it as a key factor for improving transparency, efficiency, and accountability in organizations.

In response, robust regulations have been enacted to achieve international benchmarks, including those outlined by the OECD's Principles of Corporate Governance and other globally recognized frameworks. This progress reflects Chile's commitment to fostering sustainable and competitive business practices.

This article will address this matter by first reviewing how principles of Corporate Governance have been incorporated into laws that contain the minimum standards that must be met for the efficient functioning of both corporations and the securities market. It will examine binding regulations established by the Chilean Corporation Law (Ley de Sociedades Anónimas) and the Chilean Securities Market Law (Ley de Mercado de Capitales Valores), and will review how such laws regulate Boards of Directors and the duties of directors in Chile, including Independent Directors, Director's Committees and related party transactions.

Subsequently, the article will analyse good Corporate Governance practices recommended by the Chilean regulator based on international standards and codes of Corporate Governance. These recommendations are contained in General Rules (Normas de Carácter General – NCG) issued by the Financial Market (Comisión para el Mercado Financiero or CMF).

We will then refer to Shareholder Protection, describing both protection mechanisms contained in the Corporation Law, and additional measures that may be agreed by the shareholders through voluntary pacts.

We will finally make some comments about shareholder disputes, and the way such disputes are handled in Chile.

GOOD CORPORATE GOVERNANCE PRACTICES CONTAINED IN CHILEAN LAW

THE BOARD OF DIRECTORS

The Board of Directors

The Board of Directors represents the corporation in all matters. It is empowered with broad and sufficient authority to manage the corporation in all matters that do not expressly require shareholder approval under the law, or pursuant to the corporation's bylaws.

Minimum number of Board Members or Directors

The law establishes a minimum number of Directors, ranging from three directors in closed corporations, to five directors in open corporations, and seven directors in those cases where an open corporation is obliged to appoint an independent director and constitute a Directors' Committee.

Replacement of directors

Directors are elected by the Ordinary Shareholders' Meeting and hold office for the term specified in the bylaws. They may be re-elected indefinitely. The law allows substitute directors. If included in the bylaws, each incumbent director will have a substitute director. The substitute will replace the incumbent with full powers, temporarily as required when the incumbent is not available for a Board meeting, and permanently in the event of absence of the incumbent director. Substitute directors may to speak but not vote when they participate in board meetings. The same rules established for the incumbent directors generally apply to them, unless the bylaws indicate otherwise.

Directors' remuneration

The Corporation Law incorporates the "Say on Pay" principle concerning directors' remuneration. This principle requires that the corporation's bylaws explicitly state whether directors will receive compensation for their duties. If compensation is to be provided, the Ordinary Shareholders' Meeting must determine the amount annually, in advance.

Furthermore, the Annual Report (Memoria Anual) submitted for approval at the Ordinary Shareholders' Meeting must include a detailed breakdown of all types of remuneration received by directors during their tenure. This includes payments for tasks or functions beyond their directorial role (e.g., directors who serve as independent contractors for the corporation). It must also disclose any additional funds provided to directors for other purposes, such as representation expenses, travel costs, royalties, stipends, or other allowances.

DIRECTORS' DUTIES

Fiduciary duties of the Board of Directors

The law establishes various obligations and duties for the Board of Directors and for each of its members. Many of these legal obligations serve to protect the shareholders of the corporation, and especially minority shareholders. These obligations can be separated into the following two groups:

1. *Duty of care.*

The duty of care obliges directors to act with a standard of reasonable care by taking necessary and appropriate steps to oversee and address matters related to the corporation's administration. This includes the responsibility to obtain adequate information to make informed decisions effectively.

Directors must also fulfil specific obligations, such as attending and actively participating in board meetings and committee sessions. They are required to advocate for board meetings when deemed necessary and to request the inclusion of topics in the meeting agenda that are considered beneficial for the corporation. Furthermore, the duty of care compels directors to oppose resolutions that are illegal or contrary to the corporation's interests, thereby safeguarding the organization's integrity and promoting sound governance.

Each director is jointly and severally liable for any harm or damage suffered by the corporation and/or its shareholders due to the directors' negligent or intentional actions or omissions.

2. *Duty of loyalty.*

Each director must place the interests of the corporation over and above his or her personal interests, or those the interests of related persons. Furthermore, a director has a duty of loyalty to the company itself. They must not harm or damage the corporation and/or its shareholders under the pretext of defending the interests of a particular group of shareholders contrary to the best interests of the corporation as a whole.

The duty of loyalty prohibits directors from:

* Undertaking actions that are not aligned with the best interests of the corporation.

* Entering situations where there is a conflict of interest. If a potential conflict arises, they are required to inform the Board promptly and abstain from participating in deliberations or voting on the matter.

* Using corporate assets for personal gain or benefit.

* Taking advantage of business opportunities that could reasonably be of interest to the corporation without first presenting these opportunities to the corporation for consideration.

* Accepting positions at entities which could reasonably compete with the corporation

The duty of confidentiality.

The Corporation Law establishes directors' obligation to maintain confidentiality regarding the corporation's business. This includes corporate information to which they have access that has not been made public. This obligation does not apply if confidentiality goes against corporate interests, or if it relates to acts or omissions that could constitute a breach of the bylaws, or laws and regulations issued by the CMF.

Information duty

The Board of Directors has a legal obligation to ensure that shareholders and the public receive sufficient, reliable, and timely information regarding the corporation's legal, economic, and financial situation, as required by law or the Chilean Financial Market Commission (CMF) for corporations under its supervision.

In the case of open corporations, the Board has an additional responsibility to safeguard this information from being disclosed to unauthorized individuals. Only those who require access due to their official duties, position, or activities are permitted to know this information before it is shared with shareholders and the public.

Incompatibility of positions

To prevent conflicts of interest, Chilean law establishes that the position of "gerente general"[1] is incompatible with that of president, auditor, or accountant of the company. In the case of open corporations, this incompatibility extends to the position of director.

Additionally, the law explicitly prohibits certain individuals from serving as directors of open corporations. These include:

- Public authorities who could have conflicts of interest due to their governmental roles.
- CMF officials who oversee the corporation or its business group, to ensure impartiality and prevent regulatory bias.
- Stockbrokers, securities dealers, and their directors and executives, given their potential for conflicts arising from market activities.

Directors' liability

The directors' liability regime in Chile intends to ensure that directors act with diligence to comply with the duties established by law. Members of a corporation's Board of Directors who are found to have breached the rules set out above resulting in damage to the corporation, are personally jointly and severally liable to the company and its shareholders.

In addition, the Corporation Law presumes negligence on the part of the directors, who will be jointly and severally liable for damages to the corporation, its shareholders and/or third parties if:

1 The role of "Gerente General" in Chile is most closely equivalent to Managing Director or CEO in British companies.

- if the corporation fails to keep its books and records
- the directors agree to distribute interim dividends when there are accumulated losses
- the corporation conceals its assets, acknowledges alleged debts or simulates the disposal of assets
- related party transactions are approved without complying with the legal requirements.

The duties of directors are established by law and may not be reduced or eliminated by the corporation's bylaws, or by any other agreement between the company and its shareholders. Directors who do not wish to be held accountable for acts or decisions of the board should state their opposition in the board's minutes. This will be reported by the chairman during the next ordinary shareholder's meeting. Similarly, a director who deems the relevant minutes to be inaccurate or contain omissions has the right to stamp his opposition upon the document before signing.

In addition to civil liability, directors of corporations under the supervision of the CMF are subject to administrative liability for breaches of laws, regulations, by-laws, and other governing rules applicable to the corporation, as well as for violations of instructions or orders issued by the CMF.

In such cases, directors may face the following sanctions, which are independent of any penalties established under other legal or regulatory frameworks:

1. Censorship – A formal reprimand or criticism for misconduct or non-compliance.
2. Fines for tax benefit – Monetary penalties intended to serve as both a punishment and a deterrent.

Finally, directors may be held personally criminally liable for actions taken in their capacity as directors. Since the enactment of the Corporate Criminal Liability Law in 2009, the corporation itself can also face corporate criminal liability.

Criminal offenses under this law, such as bribery of public officials, can result in both individual criminal liability for directors or officers and corporate liability for the organization. In such cases, penalties may be imposed on both the individual and the legal entity.

INDEPENDENT DIRECTORS AND THE DIRECTORS' COMMITTEE

Since 2010, Chilean law mandates that all open corporations meeting specific criteria must include at least one independent director and establish a Directors' Committee. These requirements apply to corporations with:

- A market capitalization of at least UF[2] 1,500,000 (approximately USD 60 million).
- At least 12.5% of voting shares held by shareholders who individually own or control less than 10% of the total voting shares.

2 The **Unidad de Fomento (UF)** is a Chilean inflation-indexed unit of account. Its value is adjusted daily according to changes in the Consumer Price Index (CPI), making it a stable reference for contracts, loans, real estate transactions, and other financial activities.

Independent directors

The purpose of an independent director is to counterbalance the power of the majority shareholder and act as a minority shareholder protector. According to Chilean Law, a director is not considered independent if, at any time within the last 18 months, he or she has:

(i) Maintained any association or interest of a material nature and amount, whether financial, professional or commercial, with the corporation, with other corporations belonging to the same business group, with its controlling shareholder or with the main executives of any of the above, or has been a director, manager, administrator or officer of any of the above.

(ii) Had a family relationship with any of the persons described in (i).

(iii) Been a director, manager, administrator or main executive of a non-profit organization that has received contributions from persons or entities described in (i)

(iv) Been a partner or a shareholder that has controlled, directly or indirectly, 10% or more of the capital stock, or has been a director, manager, administrator or main executive of an entity that has provided consulting or legal services, for relevant amounts, or external audit services to the persons or entities listed in (i).

(v) Been a partner or a shareholder that has controlled, directly or indirectly, 10% or more of the capital stock, or has been a director, manager, administrator or main executive of the main competitors, suppliers or clients of the corporation.

The requirements for being an independent director in Chile are indeed stringent. Furthermore, to qualify as a candidate for election as an independent director, an individual must be nominated by shareholders who collectively represent at least 1% of the company's shares. This nomination must be submitted no less than ten days before the scheduled shareholders' meeting where the election of directors will take place.

The Directors ´' Committee

The role of the Directors' Committee is to control and supervise the management of the company. Chilean Lawlaw requires that the majority of the Directors' Committee (at least two out of three members) must be independent directors. If there are not enough independent directors on the Board to serve on the Committee, the independent director can appoint the rest of the Directors' Committee members from among the remaining Board members who do not meet the independence requirements.

The members of the Directors' Committee are compensated for their duties. The amount of such compensation must be

determined each year by the Ordinary Shareholders' Meeting. The Directors' Committee performs the following functions:

- Reviewing financial statements and external auditor reports before they are presented for shareholder approval.
- Proposing candidates for external auditors and private rating agencies to the Board of Directors.
- Examining transactions involving related parties and assessing compliance with relevant regulations.
- Recommending the adoption of a comprehensive conflict-of-interest management policy to the Board, including an evaluation of the corporation's general policy on related-party transactions.
- Reviewing remuneration structures and compensation plans for managers, executives, and employees.
- Preparing an annual management report with the Committee's primary recommendations for shareholders.
- Advising the Board of Directors on the benefits of hiring external auditors for additional non-auditing services.
- Undertaking other duties as assigned by the bylaws, the Board of Directors, or the Shareholders' Meeting.

RELATED PARTY TRANSACTIONS

The Corporation Law in Chile establishes the legal framework for related party transactions for both closed and open corporations, clearly defining who qualifies as a "related party" in each case.

Closed Corporations

In the case of closed corporations, a corporation may only enter into agreements or contracts with related parties involving significant amounts if:

1. The transaction adheres to market conditions, and
2. It receives prior approval from the Board of Directors (excluding conflicted members) or is approved or ratified by two-thirds of the voting shares at an Extraordinary Shareholders' Meeting.

The corporation's bylaws may permit related party transactions without requiring compliance with these conditions.

The law also provides a clear process for approving related party transactions, defines what constitutes a "significant amount," and specifies when a director is considered to have an interest as a related party.

Open corporations

In the case of open corporations, the Corporation Law dedicates an entire chapter to regulating related party transactions, establishing formal and transparent procedures. These procedures are guided by the principles of transparency, information, communication, and the safeguarding of corporate interests. An assessment of the transaction must be made by an independent third party before its approval.

An open corporation may only enter transactions with related parties if:

1. The transaction contributes to corporate interest.

2. The price, terms, and conditions align with market standards at the time of approval.

3. The transaction complies with the legal requirements and procedures outlined in the law.

These requirements mandate that directors, managers, administrators, main executives, or liquidators who are conflicted or involved in the negotiations of a related party transaction must disclose the transaction and its details to the Board of Directors.

Approval of related party transactions requires an absolute majority of the Board of Directors, excluding the conflicted members. However, if a majority of the directors are conflicted, the transaction must be approved unanimously by the non-conflicted members, or by the Extraordinary Shareholders' Meeting, requiring approval by two-thirds of the voting shares.

The law requires that shareholders should be well informed about the characteristics of such operations. If the transaction is submitted for approval by the Extraordinary Shareholders' Meeting, the Board must appoint an independent consultant to report on the terms of the transaction, including its effects and its potential impact on the corporation.

The Board must make the independent consultant's report available to the shareholders on the next business day after its receipt by the corporation. It must keep a copy of the report at the corporation's offices and on its website for least 15 working days from the date the report was received. Each director must also furnish the shareholders their individual opinion on whether the transaction is in the corporation's best interest within 5 working days from the receipt of the report.

Approval of related party transactions that violate the above procedure does not invalidate the transaction itself. However, the conflicted or involved individual is held liable for any damages caused to the corporation and/or its shareholders. Additionally, they must reimburse an amount equal to the profits the transaction generated for the related counterparty.

Despite these requirements, open corporations are permitted to enter related party transactions without adhering to the outlined procedures in the following circumstances:

1. Non-material transactions, where the transaction does not involve a significant amount.

2. Habitual transactions, where the transaction is consistent with the corporation's ordinary business activities.

3. Transactions involving a subsidiary at least 95% owned by the corporation.

GOOD CORPORATE GOVERNANCE PRACTICES, RECOMMENDED BY THE CMF

The CMF has set forth standards of good corporate governance practices for corporations in General Rules (Normas de Caracter General - NCG). These standards were drawn up from international principles and recommendations, including the 20142020 OECD Corporate Governance principles and the corporate governance Codes applicable in the UK, Germany, and the Netherlands, among others.

NCG 461 establishes requirements for corporate governance disclosures that must be included in the Annual Report of

open corporations under the oversight of the Commission for the Financial Market (CMF). While compliance with NCG 461 is mandatory for these corporations, the corporate governance practices outlined are framed as recommendations, offering flexibility for corporations to self-regulate their implementation.

NCG 461 came into effect in 2021, replacing the earlier NCG 385, which previously covered corporate governance reporting. Under NCG 385, companies were required to complete a self-assessment questionnaire regarding their adherence to CMF-recommended practices. However, NCG 461 introduced a shift from the "comply or explain" model of NCG 385 to an "integrated reporting" approach, requiring corporations to include this governance information directly in their Annual Reports.

NCG 461 sets out the minimum content that open corporations must include in their annual report. In relation to corporate governance, this includes the following matters:

Governance Framework

Corporations are required to disclose their corporate governance structure, specifically focusing on the adoption of best practices. This disclosure must include, at a minimum, the following aspects:

1. How the entity ensures and evaluates the effectiveness of its corporate governance practices.
2. The integration of sustainability, social responsibility, and human rights considerations into corporate governance policies and practices.
3. Measures to detect conflicts of interest and prevent corruption, money laundering, and the financing of terrorism.
4. Strategies for addressing the interests of key stakeholders and incorporating their concerns into governance decisions.
5. Efforts to promote and facilitate innovation, including the allocation of resources toward research and development initiatives.
6. Policies for identifying and fostering diversity in skills, knowledge, experience, and perspectives at all organizational levels, as well as steps taken to identify and reduce barriers—whether cultural or organizational—to achieving such diversity.

Operation and composition of the Board of Directors.

Corporations are required to disclose comprehensive information regarding their Board of Directors, including the following:

- Names, titles, and remuneration of each board member.
- Information on the knowledge, skills, and experience of each board member.

- A description of procedures or mechanisms for orienting and training new board members, as well as continuous training, knowledge updates, and identifying areas for improvement.
- The existence of policies for hiring experts.
- Details of periodic meetings held with external and internal auditors, the risk management department, and the social responsibility department.
- Information on formal procedures for the continuous improvement of operational and information systems.
- The existence of operational continuity plans to address potential crises.
- Confirmation of directors' unrestricted access to company records and documents.

Corporations are also mandated to provide detailed information on the composition and functioning of their Board of Directors, as follows:

1. Board Composition:

    a. Breakdown by gender, nationality, age range, seniority within the organization, and the number of directors with disabilities.
    b. Disclosure of any disparities in remuneration among directors, including gender-specific pay gaps.

2. Board Committees:

    a. A description of the purpose and scope of each committee.
    b. Identification of committee members and their remuneration.
    c. Information on the committees' main activities and policies for hiring experts.
    d. The frequency with which each committee reports to the Board.

3. Directors' Committee:

    a. If the corporation has a Directors' Committee with an independent director, it must disclose compliance with the relevant requirements under the Corporation Law.
    b. Details of related party transactions reviewed by the Directors' Committee in the past year.

Main Executives

Corporations are required to disclose specific details regarding their main executives to ensure transparency and accountability. This includes:

- The name, ID number, and position of each main executive.
- The date from which each executive has held their current position.
- The total remuneration of main executives, presented in aggregate.
- A comparison of their remuneration with the previous year.
- Details of any compensation plans or special benefits provided to main executives.
- Information on the percentage of ownership interest held by each director or main executive, whether directly or indirectly, in the corporation.
- Disclosure of any significant changes in shareholding during the previous year.
- If ownership interest is not applicable, this must be expressly stated.

Adherence to local or international codes of corporate governance

The corporation must disclose whether it adheres to codes of corporate governance issued by public or private organization, indicating which practices recommended by such codes are not adopted by the corporation and why.

Relationship between the company, shareholders and the public

The corporation is required to disclose how it manages relationships with its stakeholders, ensuring transparency and effective communication. This includes:

- Reporting whether procedures are in place to identify and implement potential improvements in the corporation's market disclosures.
- Ensuring that communications are easily understood, provided in a timely manner, and detailing the frequency of such reviews.
- Procedures to ensure shareholders are informed in advance of a shareholders' meeting about the skills, qualifications, and experience of candidates for director positions.
- The availability of technological tools that allow shareholders to participate in meetings in real-time.
- Mechanisms for remote voting to ensure shareholders can exercise their rights effectively.
- The establishment of an investor relations department tasked with responding to inquiries from shareholders, investors, and the media.
- Ensuring this department provides accurate information on the company's financial and legal situation.

Management and risk control

The corporation is required to detail how it integrates a comprehensive risk management and internal control framework into its operations. This includes a focus on processes for detecting, managing, and controlling various types of risks, such as climate change (including physical and transition risks), cybersecurity, antitrust concerns, health and safety risks, among others.

The report must also describe the role of the Board of Directors or other corporate bodies in identifying and addressing these risks. Specific elements to be disclosed include:

- Processes for identifying and mitigating risks across different areas of the corporation's activities.
- Information on the existence and use of complaint mechanisms available to employees, shareholders, and other stakeholders.
- The adoption and enforcement of ethical guidelines to ensure integrity in corporate operations.
- Whether a formal succession plan is in place to ensure leadership continuity.
- Procedures for evaluating and revising salary structures and compensation policies for managers and executives.
- Implementation of measures in compliance with Law No. 20,393, which addresses criminal liability for legal entities.
- Steps taken to ensure adherence to this model and mitigate risks of corporate misconduct.

Deferred entry into force

NCG 461 introduces a phased implementation of its provisions based on the type of corporation and the valuation of its assets. For open corporations with total consolidated assets of at least UF 20,000,000 (approximately USD 800 million), compliance began with their 2022 Annual Report and applies to all subsequent reports. Corporations with total consolidated assets of at least UF 1,000,000 (approximately USD 40 million) are required to comply starting with their 2023 Annual Report and subsequent reports. Finally, corporations not covered by the prior thresholds must adhere to the provisions of NCG 461 beginning with their 2024 Annual Report and for all subsequent reports.

SHAREHOLDER PROTECTION

Shareholders of Chilean corporations have several legal and contractual tools at their disposal which, if properly used, can provide significant protection for their rights as shareholders. Furthermore, there are various other legal institutions that provide additional shareholder protection.

SHAREHOLDERS' LEGAL RIGHTS

Equality of rights

All shares of a corporation of the same class or series confer equal rights to their holders. This equality may not be limited or restricted by the corporation's bylaws or by any agreements taken by its shareholders. Consequently, the corporation may not discriminate between same-class shareholders or against foreign shareholders.

Right to vote

Shareholders vote on company matters in duly convened shareholder meetings. To exercise the right to vote at a shareholders' meeting, a shareholder must be registered in the corporation's share register at least five days prior to the date of the meeting in the case of open corporations, or immediately before the meeting in closed corporations.

Right to summon shareholder meetings

Shareholders that hold at least 10% of voting shares may instruct the Board of Directors to summon a shareholders' meeting to discuss matters that they propose.

Right to dividends

In open corporations' shareholders have the right to receive annual dividends equivalent to at least 30% of the previous year's net profits, unless the shareholders unanimously decide otherwise. In closed corporations, the bylaws of the corporation may establish a different rule, but in absence of any such rule, the open corporation rule on mandatory dividend distribution applies.

As a rule, dividends must be paid in cash unless shareholders unanimously agree otherwise. In open corporations, dividend payments exceeding the 30% annual minimum may be paid in cash, in bonus shares, or in shares held by the corporation in other publicly traded companies, at the individual shareholder's discretion.

Preferred shares

An exception to the principle of equality of rights among shareholders allows corporations to issue one or more classes of preferred shares. Shareholders may establish such classes, granting special rights that differ from those of ordinary shares. These rights can include enhanced or reduced dividend entitlements, as well as unique voting rights, such as shares with no voting rights or shares with limited voting privileges.

Preferences granted to preferred shares must be explicitly detailed in the corporation's bylaws and reflected in the corresponding share certificates. By law, these preferences must always have a defined duration, and they cannot be stipulated without specifying their validity period. Furthermore, preferences cannot include the allocation of dividends that do not originate from the prior year's profits or retained earnings. They also cannot involve granting the right to multiple votes at shareholders' meetings. In the case of open corporations, the bylaws may allow for preferred shares that confer control privileges for a

maximum period of five years, extendable only through a resolution passed at an Extraordinary Shareholders' Meeting.

Bylaws amendments with the purpose of creating, modifying, extending or supressing preferred shares require approval by the Extraordinary Shareholders' Meeting with a two-thirds favourable vote of the affected class of shares. So, the non-preferred class and dissenting shareholders of the affected class have a right to withdraw from the corporation. Shares of the same series have the same rights.

Finally, it is worthy of note that limited liability stock companies (Sociedad por Acciones – SpA) offer significantly greater flexibility than corporations in the establishment of preferences. They allow the creation of obligatory dividends that take precedence over other dividend distributions, or dividends that arise from a specific business unit of the company, among other schemes. In this type of corporate vehicle, the bylaws may establish preferences without the need for a corresponding limitation to the preferred class of shares.

Preferential subscription rights (right of first refusal)

Chilean law ensures shareholders of a corporation the possibility of maintaining their relative equity participation in the corporation, thereby avoiding dilution. Existing shareholders enjoy a statutory preferential subscription right regarding new shares issued in capital increases of the corporation, as well as in the issuance of bonds and debentures that may be subsequently transformed into shares. Upon issuance, such shares, convertible bonds or debentures must be offered to all existing shareholders in proportion to their respective shareholdings in the corporation.

Shareholders have a 30-day term to exercise their right and acquire their pro rata portion of the shares, convertible bonds or debentures issued by the corporation. This preferential subscription right is essentially waivable by the shareholder and transferrable to third parties. The preferential subscription right only exists in SpAs to the extent it is expressly established in the company's bylaws.

Right of free transfer

A corporation may not limit the right of its shareholders to freely transfer their shares. This rule is notwithstanding shareholders' right to freely enter into Shareholders' Agreements whereby they limit or regulate their right to transfer their shares.

Right of information

Shareholders are entitled to access accurate and timely legal and financial information about the corporation. This includes the right to review financial statements, inventory records, accounting ledgers, and auditor reports, which must be made available at the corporate offices at least 15 days before a shareholders' meeting.

For open corporations, a copy of the financial statements, accompanied by the auditor reports, must be sent to all shareholders. If authorized by the CMF, the corporation may limit this distribution to shareholders with significant equity holdings. This distribution must occur no later than the date of the first notice of an Ordinary Shareholders' Meeting,

Right of withdrawal (buyout rights)

In certain circumstances, the Corporation Law grants shareholders the right to withdraw from, or to be bought out by, the corporation. Dissenting shareholders who have opposed certain specific decisions taken in a shareholders' meeting, may have the right to force the corporation to purchase their shares and to be paid either their market value, (in the case of open corporations), or their book value, in the case of closed corporations or open corporations without any market presence.

The Corporation Law comprehensively defines the circumstances under which dissenting shareholders are entitled to exercise their withdrawal rights. These include:

1. Any decision to merge the corporation with another or to change its legal form triggers withdrawal rights.
2. Transformation from an open corporation to a closed corporation allows shareholders to withdraw.
3. Shareholders gain the right to withdraw if new classes of preferred shares are created.
4. The sale of more than 50% of the corporation's assets or the granting of certain securities in favour of third parties also triggers this right.

Minority shareholders in an open corporation have a withdrawal right when the controlling entity acquires more than 95% of the corporation's shares.

OTHER LEGAL SOURCES OF PROTECTION OF SHAREHOLDERS' RIGHTS

There are several other laws and regulations that directly or indirectly serve to protect shareholder interests in Chilean corporations.

Protection of shareholder rights through meeting voting quorum

As a rule, matters submitted for consideration at a shareholders meeting must be approved by the simple majority (50% + 1) of the voting shares present at the meeting. These matters include, among others:

- Approval of the financial statements and annual report.
- Designation of directors.
- Designation of auditors.
- Amendment of certain matters of the corporation's bylaws, including changes in the social purpose and capital increases.
- Distribution of profits.
- Issuance of bonds or convertible debt.

Certain matters, considered by the Corporation Law to be of higher importance for shareholders, require the approval of a supermajority of two-thirds of all issued and outstanding voting shares:

- Transformation, division or merger of the corporation.
- Capital reductions.
- Approval and appraisal of capital contributions in kind.
- Amendment of the powers of the shareholders or of the Board of Directors.
- Reduction in the number of directors.
- Termination of the corporation.
- Acquisition by the corporation of its own shares.
- Transformation from an open to a closed corporation (going private).

Corporate restrictions on the purchasing of own shares

A corporation's acquisition of its own shares could harm the interests of minority shareholders, as the majority-controlled management would be able to vote with such shares, thereby allowing majority shareholders to increase their control over the corporation.

To avoid such a situation, a corporation's acquisition of its own shares is strictly regulated in Chile. These shares are not considered for shareholders' meeting quorum purposes and have no right to vote, to receive dividends, or to preferential subscription in capital increases. Furthermore, these shares must be transferred by the corporation within a limited term, and all shareholders have a right of first refusal regarding these shares prior to their offering to third parties.

Generally, a Chilean corporation may only purchase its own shares in specific situations as set out in the Corporation Law: i) upon the exercise of the right of withdrawal by a shareholder; ii) when it merges with a corporation that owns shares in the corporation in question; and iii) in certain cases of capital reductions. For open corporations whose shares are traded on stock exchanges, there is a more general right, to acquire own shares, though still subject to strict requirements and limitations.

Takeover regulations

Please refer to the article on the Securities Market.

Derivative actions

Since the year 2000, minority shareholders have had the right to initiate "derivative actions" against the corporation.

Corporate actions in Chile are typically executed following a favourable decision by the majority of shareholders or directors, depending on the nature of the decision. However, the "derivative actions" rule provides a significant mechanism to protect the interests of the corporation and its minority shareholders.

Under this rule, one or more minority shareholders may initiate legal proceedings against the corporation's directors on behalf of the company. This action is taken when the directors are alleged to have breached their obligations, as outlined in the Securities Markets Law, causing harm or damage to the corporation.

ADDITIONAL CONTRACTUAL PROTECTION. SHAREHOLDERS' AGREEMENTS.

Additional rights in favour of minority shareholders may be entrenched by including protective shareholder provisions in the corporation's bylaws, or by entering into shareholder agreements. In closed corporations, the bylaws may include provisions that limit the transfer of shares. Such limitation is expressly prohibited for open corporations. The bylaws may also include other measures to protect minority shareholders, such as requiring supermajorities, whether of shareholders or directors, for the approval of certain decisions.

Notwithstanding the statutory limitations regarding the corporations' bylaws, in both open and closed corporations the shareholders may enter into private Shareholders' Agreements that restrict or regulate the transfer of shares in the corporation. These agreements must be delivered to the corporation, and the corporation's share register must declare them to be fully effective. In general, all usual shareholder agreement provisions are permitted, if they comply with the Corporation Law and the general law of contract. In the case of open corporations, they must also comply with takeover law.

Finally, it is worth noting that (SpAs) allow considerably greater flexibility regarding the incorporation of shareholder protection provisions in the bylaws of the company.

SHAREHOLDER CONFLICTS

Historically, Chile has had relatively few corporations with dispersed shareholding, where control and ownership are significantly separated. Consequently, instances of conflict between shareholders and a corporation's management have been relatively uncommon. This is gradually evolving as more companies are turning to the Chilean capital markets for financing.

In general, matters have been resolved by applying the majority principle, i.e., a majority of the shareholders decides on the most significant matters for the corporation, and the will of such majority (or supermajority, when required by law or the constitution of the company's bylaws) is deemed to be the will of the corporation. In certain instances, shareholders who oppose a decision of the majority may exercise their right of withdrawal or buyout from the corporation.

The Corporation Law acknowledges that corporations have an interest distinct from those of individual shareholders. Furthermore, it expressly states that shareholders must exercise their corporate rights in consideration of the rights of the corporation and their fellow shareholders. However, these obligations do not alter the fundamental nature of the corporation's interest, which remains subordinate to that of the shareholders.

Consequently, shareholders may pursue self-interest, with a focus on short-term, gains and share price maximisation, to the detriment of the long-term interests of the corporation, without significant repercussions.

In contrast, litigation between fellow shareholders, as opposed to litigation between shareholders and the corporation, is much more common.

Resolution of Conflicts

Legal conflicts between shareholders within a corporation or between shareholders and the corporation must be settled by arbitration. Usually, the type, terms and conditions of the arbitration are established in the corporation's bylaws in the act of incorporation.

Shareholder conflicts are one of the few compulsory arbitration matters in Chilean law, as the law has correctly considered that an arbitrator is better suited to handle these types of conflicts than a judge. Arbitration generally functions well in Chile as there are numerous competent and experienced arbitrators who are knowledgeable in corporate and commercial law. Furthermore, the option to submit a dispute to international arbitration is also available.

All standard legal remedies available under Chilean law, including but not limited to injunctive measures, specific performance and/or damages, are available to non-breaching shareholders.