

Doing Business in Chile

Guide 2025

INSURANCE



Executive Summary

Chile has a sophisticated insurance market with 35 life insurance companies and 25 non-life insurers. Given its exposure to a wide range of natural catastrophes, it relies heavily on foreign reinsurance entities, such as Lloyd's of London which is specifically mentioned in Chile's Insurance Law (D.F.L. No.251). As an example, 94% of the insured losses caused by the 2010 earthquake (USD 6.5 billion) were reinsured abroad.

Said event led to several amendments to the insurance legal framework. The 1989 regulations governing the loss adjustment procedure were replaced in 2012 by D.S. No.1055. In turn, as Chile's Civil Code provides that the insurance contract is governed by the Code of Commerce, the latter was amended in 2013 to include, among other articles, provisions regarding reinsurance. To interpret the will of the parties, guidance can now be sought in "international custom and practice regarding reinsurance". In this regard, there are ongoing international codification efforts, such as the Principles of Reinsurance Contract Law ("PRICL").

In turn, the Financial Market Commission ("CMF") was created by Law No.21,000 in 2017, merging the Banks and Financial Institutions Superintendence ("SBIF") and the Securities and Insurance Superintendence ("SVS") into a single institution. The CMF is an active member of the International Association of Insurance Supervisors ("IAIS") and hosted its 2022 annual conference in Santiago.

The CMF requires foreign reinsurance entities to maintain a minimum BBB credit rating, confirmed by at least two of the following agencies: Standard & Poor's, Fitch, Moody's, or A.M. Best. If a reinsurer loses this rating, the insurer must find a replacement within six months.

The CMF also supervises insurers, brokers, and loss adjusters. Loss adjusters are considered "auxiliaries of the insurance trade," and must be registered with the CMF and provide financial guarantees to cover potential damages to insured parties.

A distinctive feature of Chilean regulation is the requirement that adjusters remain autonomous and impartial. They must act independently of both insurer and insured and are legally obligated to issue opinions on both coverage and the quantum of loss. These opinions are non-binding and may be challenged—first before the same adjuster, then before an arbitrator.

If the disputed amount is less than UF 10,000, the insured has the option to bring the case directly before the ordinary courts.

The Chilean Association of Insurers (AACh) offers an alternative dispute resolution mechanism through the Insurance Ombudsman (Defensor del Asegurado). This is available for claims up to UF 500 (non-life) and UF 250 (life), unless both parties agree to submit higher-value disputes. Ombudsman decisions are binding only on insurers. If unsatisfied, the insured may still pursue claims through the ordinary courts or the Consumer Protection Agency (SERNAC).



The AACH also operates a Self-Regulation Council, which issues binding guidelines for its members.

Practitioners of insurance law in Chile are represented in the International Association of Insurance Law (AIDA). Under its umbrella, Santiago hosts the ARIAS Latin America (Re)Insurance Arbitration and Mediation Centre. This is supported by Law No. 19.971 on International Commercial Arbitration, enacted in 2004, based on the UNCITRAL Model Law.

Disputes typically involve denied claims, making policy wording critically important. Most policies are drafted by insurers and filed with the CMF's Policy Deposit. These must be written in clear, understandable language. In the event of ambiguity, the interpretation most favourable to the insured prevails.

Insurers may use non-deposited policies only in specific "big risk" categories—such as cargo, transport, marine or aircraft hulls, and satellites—or when the annual premium exceeds UF 200. In these cases, parties may freely negotiate policy terms.

A notable recent development is the 2023 Fintech Law, which authorizes parametric insurance. This model compensates policyholders based on predefined event parameters (e.g., earthquake magnitude or rainfall level). The CMF concluded a public consultation on its draft regulation on November 4, 2024. A new General Norm is expected to be issued by the end of the year.



INSURANCE

The insurance market in Chile is regulated with a strong focus on protecting the insured. Regulations cover the corporate and financial requirements for insurance and reinsurance companies, as well as the supervision of their operations, including those of brokers and adjusters.

The law also provides detailed rules on claims adjustment procedures and sets clear obligations for insurers, brokers, and adjusters in their dealings with policyholders.

The primary legal framework is DFL 251 of 1931—the Insurance Law (*Ley Sobre Compañías de Seguros*), referred to hereafter as the “Law.”

SUPERVISION

Insurance companies in Chile are regulated and supervised by the Financial Market Commission (CMF), formerly known as the Superintendence of Securities and Insurance (SVS), under DFL 251 of 1931. The CMF oversees compliance with corporate and financial requirements, handles complaints from insured parties, and enforces sanctions when necessary.

Loss adjusters and insurance/reinsurance brokers are also supervised by the CMF. These “insurance auxiliaries” must be registered in the CMF’s Insurance Trade Register of Auxiliaries.

The CMF periodically issues administrative regulations that establish solvency, technical, and operational requirements for insurers, reinsurers, and brokers. These rules also cover the contracting of insurance policies and the conduct of claims adjustments.

The CMF maintains a public registry of model clauses and general conditions to be used in standard insurance policies. These model wordings are mandatory, except for specific cases such as transportation, aircraft, and marine hull insurance, or when the insured is a legal entity, and the annual premium exceeds UF 200. In these exceptions, parties may use Free Agreement Policies (*Pólizas de Libre Redacción*), which must be clearly labelled as such and signed by both the insurer and the insured.

The use of registered model wordings is important because coverage terms cannot be restricted or materially altered in ways that disadvantage the insured. In cases of ambiguity, the interpretation most favourable to the insured, policyholder, or beneficiary will prevail.



INSURANCE COMPANIES

Under the Law, only Chilean insurance and reinsurance companies—whose sole corporate purpose is insurance—may underwrite risks in Chile in exchange for premiums.

However, foreign insurers may operate in Chile in limited areas: international maritime and aviation insurance, cargo transit, and satellite-related risks.

Individuals are free to contract insurance abroad, except for types that must legally be obtained from insurers established in Chile. Chilean insurers and reinsurers, in turn, may underwrite risks originating outside the country.

Insurance companies in Chile are classified into two categories:

1. Those covering loss or damage to property or financial interests.
2. Those covering personal risks related to individuals.

INSURANCE BROKERS

Insurance brokers are independent intermediaries, classified as insurance auxiliaries, and must be registered with the CMF, which also supervises their activities.

They are authorized to place insurance with any licensed insurer and are required by law and regulations to provide informed advice to clients.

Brokers must assist clients in selecting coverage that best suits their needs, explain the terms and conditions of the chosen policy, and support them throughout the policy term, including in the event of a claim.

LOSS ADJUSTERS

Loss adjusters are insurance auxiliaries who must be registered with the CMF and are subject to its supervision. They investigate insured events to determine whether a claim is covered under the policy and assess the compensation due.

By law, adjusters must act independently of all parties. Although paid by the insurer, they are required to issue objective, technical opinions on coverage and loss amounts. Their work must be transparent and timely, with equal access to information for all parties.



Loss Adjustment Procedure

Chile's loss adjustment process is detailed in regulations updated in 2012 to handle the growing number of policies and to incorporate technology. These rules include special provisions for mass events, developed after the 2010 earthquake.

The process begins when the insured or broker reports the incident to the insurer. The insurer may conduct a direct adjustment or appoint a CMF-registered adjuster. The insured may reject a direct adjustment and request a registered adjuster instead.

Adjusters must issue their report within 45 days. Exceptions apply:

- Maritime hull or general average claims: 180 days
- Individual property/casualty claims with annual premiums over UF 100: 90 days
- Extensions are allowed with justification and notice to the CMF.

Once the adjustment report is issued, the parties have:

- 10 days to challenge it (or 20 for Free Agreement Policies)
- The adjuster must respond within 6 days (or 12 for Free Agreement Policies)
- The insurer must then notify the insured of its final decision within 5 days

Compensation must be paid within 6 days, unless otherwise agreed under Free Agreement Policies. Reinsurance arrangements cannot delay payment to the insured.

In case of dispute, insurers must inform the insured of their right to arbitration (mandatory) or court action if the amount is below UF 10,000. Insurers must also send the CMF copies of final court decisions involving insurance disputes, which are published on the CMF website.

REINSURANCE

Reinsurance of Chilean insurance policies may be carried out by:

1. Chilean reinsurance companies—whose sole corporate purpose is reinsurance and who are registered with and supervised by the CMF.
2. Chilean insurance companies
3. Foreign reinsurers—rated at least BBB (or equivalent) by at least two internationally recognized credit rating agencies (Standard & Poor's, Fitch, Moody's, or A.M. Best), as approved by the CMF.



Foreign reinsurers must appoint a representative in Chile with broad authority, including the ability to accept service of process—unless the reinsurance is placed through a CMF-registered reinsurance broker.

Reinsurance does not alter the terms of the contract between the direct insurer and the insured. Payment to the insured cannot be delayed due to pending reinsurance recovery.

Previously, these rules were considered modifiable by agreement. However, the latest amendment to the Commerce Code, effective December 1, 2013, confirmed that these provisions are mandatory and cannot be altered by contract.

CHILEAN JURISDICTION

The Law mandates that all disputes arising from direct insurance and reinsurance contracts are subject to Chilean jurisdiction, and any agreement to the contrary is null and void.

However, since December 2013, once a reinsurance dispute has arisen, the parties may agree to resolve it under Chile's International Commercial Arbitration Law No. 19.971 (2004), which is based on the UNCITRAL Model Law.

AMENDMENT TO THE COMMERCE CODE

On 9 May 2013, Law No. 20,667 was published in the Official Gazette and came into force on 1 December 2013. It amended the Commerce Code, replacing Title VIII, Book II, now titled “The Insurance Contract”. This reform introduced significant changes, summarized as follows:

1. The Insurance Contract is Consensual

The contract is valid upon mutual agreement, not solely through the existence of a written policy. This allows the existence and terms of insurance to be proven by written evidence, such as a proposal from the insured and a quotation from the insurer.

2. Binding Nature of Insurance Regulations

The law establishes that insurance provisions are generally mandatory and cannot be modified by the parties, except where the law expressly allows it. If changes are made, the version most favourable to the insured or beneficiary prevails.



Exceptions (where terms can be freely agreed upon):

- Individually contracted property damage insurance where both the insured and the beneficiary are legal entities, and the annual premium exceeds UF 200.
- Maritime and aviation insurance, and hull insurance.

This binding character aims to protect insured parties, who are considered the weaker party in standard-form insurance contracts.

3. Civil Liability Insurance – Payment to Third Parties

While the law does not grant third parties a direct action against the insurer, it does allow compensation to be paid directly to the affected third party in liability insurance.

4. Mandatory Rules for Reinsurance Contracts

The law states that:

- Reinsurance cannot alter the original insurance contract.
- Payment to the insured cannot be delayed due to reinsurance arrangements.
- The “Provision of Funds” clause is invalid. This clause, which made payment to the insured contingent upon the insurer receiving funds from the reinsurer, is no longer allowed.

Direct action against the reinsurer by the insured is only possible when:

- A Cut-Through Clause exists (allowing direct payment by the reinsurer), or
- The insurer assigns its reinsurance rights to the insured after a claim.

Nonetheless, these exceptions do not release the insurer from its obligation to pay the insured.

5. Codification of Market Practices and Regulations

The reform also codifies practices and administrative rules previously established by the former SVS (now CMF), addressing the increasing complexity and use of insurance in Chile. The new rules emphasize consumer protection, recognizing the insured party as the weaker party in a standard contract.