CÁMARA
CHILENO BRITÁNICA
DE COMERCIO

Doing Business in Chile
Guide 2025

SECURITIES MARKET

Executive Summary

The regulation of the Chilean securities market is governed by a comprehensive framework of laws and regulations designed to ensure transparency, symmetry of information, stability, and investor protection. There have been major changes in recent years.

The most significant of these changes was the creation of the Financial Markets Commission[1] (CMF). The CMF brought together and replaced the previous Securities and Insurance Market Regulator[2] (SVS) and the Banking and Financial Institutions Regulator[3] (SBIF) in 2019, and now incorporates almost all the relevant regulated financial institutions.

The primary regulations governing the Chilean securities market are contained in the Securities Market Law[4] and the regulations issued by the CMF. These rules cover a wide range of topics, including securities offerings, securities intermediaries, mandatory tender offers for control of publicly traded companies, and various prohibited activities and liabilities—such as insider trading and market manipulation—that are classified as crimes.

Additionally, special laws regulate key players in the securities market, such as portfolio and fund managers, depositary and custody entities, and, more recently, the Fintech industry. The introduction of Fintech regulations marks a significant regulatory shift that is still in the process of being fully implemented.

1 La Comisión para el Mercado Financiero (CMF)

2 Superintendencia de Valores y Seguros (SVS)

3 La Superintendencia de Bancos e Instituciones Financieras

4 Securities Market Law, Law No. 18,045 (Ley de Mercado de Valores)

The Chilean Securities Market

The legal framework governing the Chilean securities market is primarily set out in the Securities Market Law, as amended, along with regulations issued by the CMF.

The CMF is a decentralized public entity with technical expertise, legal capacity, and its own assets. It operates under DFL No. 3,538 and reports to the President of the Republic of Chile through the Ministry of Finance

The CMF's primary objectives are to ensure the proper functioning, development, and stability of the financial market, promote market participation, and protect public trust, all while maintaining a broad and systemic perspective of the market. The CMF is responsible for ensuring that regulated entities and individuals—such as securities issuers, intermediaries, stock exchanges, rating agencies, fund managers, portfolio managers, insurance companies, commercial banks, and financial advisors—comply with the relevant laws and regulations. It possesses extensive supervisory authority over their operations.

Public Offering of Securities

In Chile, no person—whether resident or non-resident, local or foreign—may publicly offer, promote, advertise, or sell securities or securities brokerage services without complying with the Securities Market Law and CMF regulations.

As a rule, the Securities Market Law requires that any public offering of 'securities' be preceded by the registration of the relevant securities with the CMF, either in the Securities or the Foreign Securities Registry[5] as applicable. Therefore, offering unregistered securities publicly in Chile is prohibited unless an applicable exemption is in place. Under the law, 'securities' encompass transferable instruments, including shares, stock options, bonds, debentures, mutual fund shares, savings plans, negotiable instruments, and generally any credit or investment instrument. Furthermore, the law broadly defines a 'public offering' as one directed to the public or to specific sectors or groups.

CMF General Rule No. 452 regulates certain public securities offerings which are exempt from prior registration requirements, including those that:

- are restricted to qualified investors, as defined by CMF's General Rules No. 216 and No. 410.

5 Securities Registry (Registro de Valores) or in the Foreign Securities Registry (Registro de Valores Extranjeros) ecurities Market Law, Law No. 18,045 (Ley de Mercado de Valores)

- are conducted through a local stock exchange, provided the total amount raised by the issuer or offeror in the 12 months following the initial offer does not exceed the equivalent of 100,000 UF[6], and the offeror or issuer meets the stock exchange's disclosure requirements for investor protection.
- require the investor to acquire at least 2% of the issuer's capital.
- are intended to compensate employees of the issuer, or its parent company, subsidiaries, or affiliates.
- involve securities that grant rights to membership, use, or enjoyment of facilities or infrastructure within educational, sports, or recreational establishments.

To utilize these exemptions:

- specific disclaimers must be included in all communications (verbal, physical, or electronic) related to the offer.
- the offeror must be able to provide evidence of compliance with the relevant exemption to the CMF if requested.
- the offeror must submit a filing to the CMF containing the information required by Rule No. 452.

CMF General Rule No. 336 regulates certain securities offerings that are not considered 'public offers' and are thus exempt from the registration requirement, commonly known as the 'private offer exemption.' Under this exemption, the following types of offerings are not classified as public offerings, provided they meet certain conditions:

a. they include the disclaimers required by Rule No. 336.
b. they are not made through mass media and are conducted privately.
c. one of the following conditions is met:
    I. the offer is directed to qualified investors, as specified in categories (1) to (6) of CMF's General Rule No. 216.
    II. the offer is directed to no more than 250 qualified investors, as defined in categories (7) and (8) of Rule No. 216, through one or more successive offers over a 12-month period, with up to 50 non-qualified investors included.
    III. the offer is directed to up to 50 non-qualified investors.

However, for offerings involving instruments with a unit value of at least 3,000 UF, the condition outlined in point (c) is not required

6 The Unidad de Fomento (UF) is a unit of account used in Chile. It is a non-circulating currency; the exchange rate between the UF and the Chilean peso is constantly adjusted for inflation so that the purchasing power of the Unidad de Fomento remains almost constant daily during low inflation.

The final available exemption is the cross-listing exemption under Rule No. 352. This applies when the CMF exempts the registration of a security because a collaboration agreement exists between the CMF and the foreign securities regulator where the security is registered. Currently, such agreements are in place with the securities regulators of Argentina, Canada (Alberta, British Columbia, Quebec, and Ontario), Colombia, Mexico, Peru, and Spain. These agreements may permit the offering of foreign securities to the public or, in some cases, to qualified investors only, and may also impose additional conditions.

Rule No. 352 also establishes the procedure for registering foreign securities in the CMF's Foreign Securities Registry to allow them to be publicly offered in Chile. These securities may only be offered to the public if specific conditions outlined in the regulation are met; otherwise, they can only be offered to qualified investors. Foreign securities cannot be registered in this Foreign Securities Registry or rely on the cross-listing exemption if they are issued by entities incorporated in jurisdictions that the Financial Action Task Force (FATF) classifies as high-risk or non-cooperative, due to deficiencies in their strategies to combat money laundering and the financing of terrorism.

Securities Custody and Portfolio Management Services

Chilean Law No. 18,876 provides the framework for the incorporation and operation of private securities depository and custody entities. Generally, securities deposit and custody services in Chile must be carried out by special-purpose companies (custodians) that require prior approval from the CMF to be established.

Law No. 20,712, which regulates third-party funds and portfolio management, governs the provision of 'portfolio management services.' These services involve managing the resources of individuals and entities for investment in financial instruments, contracts, or products, and must be provided regularly to 50 or more entities outside of a single-family group. A written portfolio management agreement between the manager and the resource holder is required, which may grant discretionary authority to manage the portfolio.

If portfolio management services are offered on a regular basis to: (i) more than 500 principals, or (ii) 50 or more third-party portfolios (unrelated by family) with a combined value exceeding 10,000 UF, the activity is classified as regulated and requires registration in a special registry maintained by the CMF.

Publicly Offered Securities Intermediation

Under the Securities Market Law, any entity wishing to intermediate publicly offered securities in Chile must be registered with the CMF in a special registry as either: a stockbroker, a securities intermediary operating on a stock exchange, or a securities broker-dealer, a securities intermediary operating over the counter. Securities intermediaries are defined as entities that, in order to fulfil third-party orders, buy or sell publicly offered securities

on their own account with the prior intention of reselling or repurchasing those instruments for such third parties, or buy or sell publicly offered securities on behalf of and for the account of those third parties.

Both types of securities intermediaries must be licensed and comply with the substantive provisions, requirements, and formalities outlined in the Securities Market Law, as well as the regulations, supervision, and administrative authority of the CMF. However, licensed banks are exempt from this registration requirement for their ancillary securities activities that are authorized under the General Banking Law. Stockbrokers are also subject to the self-regulatory rules and regulations of the stock exchanges where they are members or authorized to operate.

Securities intermediaries are required to comply with and maintain the leverage margins, credit positions, liquidity, solvency, net worth levels, and risk management standards established by the CMF through general regulations. Additionally, they must keep the books and registers specified by CMF regulations and regularly provide the CMF with information on their transactions and operations, including financial statements.

CMF General Rule No. 412 (set to be replaced by General Rule No. 503 on January 13, 2025) governs the procedure, frequency, and requirements for directors, executives, officers, and other employees of certain regulated financial institutions—including securities intermediaries, fund managers, portfolio managers, and, from January 2025, financial advisors—to certify their knowledge. This certification is mandatory for performing functions that require such qualifications within these regulated entities.

CMF General Rule No. 380 regulates the relationship between securities intermediaries and their clients, covering standards of care, conflict of interest management, and disclosure obligations. It includes rules on the security of client information, the minimum terms and conditions of the agreement's intermediaries must establish with their clients, KYC (Know Your Client) requirements, and the offering of products and services in line with clients' risk profiles. Additionally, it governs obligations and disclosures related to the public distribution of research, reports, or recommendations on securities or products offered by intermediaries, the execution of trade orders, and the maintenance of certain registries and client information.

Securities intermediaries are personally liable for paying the purchase price or delivering the securities in the case of a sale, and they cannot claim a lack of funds or securities from their clients as an excuse. Additionally, they are responsible for verifying the identity and legal capacity of individuals transacting through them, the authenticity and integrity of the securities traded, the accurate registration of the last holder in the appropriate securities registries, and the authenticity of the last endorsement, when applicable.

Fintech Services

Chilean Law No. 21,521, commonly known as the 'Fintech Law,' which promotes competition and financial inclusion through innovation and technology in the provision of financial services, was published in the Official Gazette on January 4, 2023. This law represents one of the most significant reforms to Chile's securities market and financial system in recent years.

The Fintech Law amends several financial and capital market laws and regulates -for the first time- the provision of the so called "fintech services" and an open banking system.

Under the Fintech Law, any individual or entity, whether resident or foreign, that professionally provides Fintech Services in Chile must be registered with the CMF. These services include collective financing platforms, alternative transaction systems, financial instrument intermediation, order routing, credit advisory services, investment advisory services, and financial instrument custody services. Unless exempt, providers must be listed in the Financial Services Providers Registry (FSPR) and obtain a license from the CMF to operate. These requirements are outlined in CMF's General Rule No. 502.

Under NCG 502, providers of investment advisory services—defined as offering evaluations or recommendations on specific investments, publicly offered securities, financial instruments, or investment projects—were required to submit their applications for registration in the FSPR and authorization by February 3, 2024. After this date, those failing to apply are prohibited from offering advisory services. Investment advisors already registered under the previous law (enacted in 2021 and repealed by the Fintech Law) must submit their applications under NCG 502 by August 3, 2024. Failure to do so may result in the CMF revoking their authorization and cancelling their registration. These advisors can continue operating until February 3, 2025, but must submit for authorization by that date.

Providers of collective financing platforms, alternative transaction systems, credit advisory services, financial instrument custody, order routing, and financial instrument intermediation services must submit their applications for registration in the FSPR and authorization to provide these services by February 3, 2025. After this date, those who have not applied will be required to cease offering these services.

For the purposes of Fintech Services, 'financial instruments' are defined in the Fintech Law as any title, contract, document, or intangible asset designed, used, or structured to generate monetary income, represent debt, or a virtual financial asset. Virtual financial assets are defined as digital representations of units of value, goods, or services (excluding money, whether local or foreign) that can be digitally transferred, stored, or exchanged. The Fintech Law expressly includes securities not registered with the CMF, derivative contracts, contracts for difference, and invoices, whether physical or electronic, as financial instruments.

The Fintech Law explicitly allows certain regulated entities, including local securities intermediaries, general fund managers, portfolio managers, licensed banks, insurance and reinsurance companies, product brokers, and other CMF-supervised entities as specified by a CMF General Rule, to provide certain Fintech Services without needing to comply with the registration and licensing requirements of the Fintech Law.

Simplified Tax Regime

A non-resident investing in securities or financial instruments issued by a local entity and traded in Chile is generally required to obtain a tax identification number (RUT) and register with the Chilean Internal Revenue Service (SII). As such, the foreign investor must register as a taxpayer in Chile and report the initiation of investment activities to the SII. Additionally, if the foreign investor grants a power of attorney to a local person, such as a broker, to conduct transactions on their behalf, the investor may be considered to have a 'permanent establishment' in Chile, potentially subjecting them to full bookkeeping and tax compliance obligations.

To encourage foreign investment and ease the burdens of registration and compliance, the Tax Code and Income Tax Law authorize the SII to implement a simplified registration and reporting regime. This regime is outlined in SII Resolution No. 150 of 2020, which replaced Resolution No. 36. The key provisions of this simplified process are described below.

Resolution No. 150 establishes a simplified procedure for non-resident investors to obtain a RUT and exempts them from the requirement to notify the initiation of activities, maintain accounting records, or file annual tax returns in Chile. This applies to foreign investors earning Chilean-source income from activities such as the purchase and sale of publicly traded shares, investments in debt instruments, derivatives, mutual funds, and other similar transactions.

Foreign investors are required to designate a local Tax Agent, who may be a bank, stockbroker, securities firm, fund manager, or another qualified entity incorporated in Chile. Financial institutions supervised by the CMF can also serve as Tax Agents. The Tax Agent is responsible for ensuring the foreign investor's tax compliance, including handling tax withholdings, filings, payments, and fulfilling both annual and monthly reporting obligations, as well as addressing any penalties in the event of violations.

Eligible Tax Agents can use an online application to obtain a simplified tax identification number (RUT) for foreign investors. To do so, Tax Agents must be registered with the SII as responsible agents, through an online process that includes the information required by Resolution No. 150. A separate RUT must be obtained for each foreign investor with whom the Tax Agent has a contract. Foreign investors must enter into an agreement with the Tax Agent, specifying that the agent will: maintain a record of the investor's investments, transactions, withholdings, filings, and returns; declare and pay applicable taxes throughout the agreement's duration; and report to the SII on compliance with the requirements of the resolution.

Control – Takeovers

According to the Securities Market Law, a 'controller' of a company is any person or group acting jointly, who, directly or indirectly through others, holds ownership in the company and can: (i) secure a majority of votes at shareholders' meetings and elect a majority of the board members, or (ii) exert decisive influence over the company's management.

A tender offer (OPA) is a public bid to acquire shares of a publicly traded company (the 'Target') or securities convertible into those shares, directed at its shareholders. The offer is made under conditions that may allow the offeror to reach a specific percentage of ownership in the Target within a set period. Tender offers can be either voluntary or mandatory.

The Securities Market Law mandates a tender offer in the following cases of direct or indirect acquisition of shares:

(i) When a person seeks to acquire or take control of a Target company.
(ii) If, through the acquisition of shares, a person's ownership reaches or exceeds two-thirds of the total shares of the Target (with certain exemptions provided by law).
(iii) When a person intends to gain control of a company that, in turn, controls another Target representing 75% or more of the former's consolidated assets. In this case, the person must first launch a tender offer to the shareholders of the latter Target to purchase a percentage of its shares, at least equivalent to the percentage of shares or voting rights needed to obtain control.

For the purposes of the mandatory tender offer regime, direct acquisitions of shares include those made by individuals acting jointly or under a joint action agreement.

Any person not otherwise required to initiate a tender offer but seeking to take control of a Target may voluntarily launch a tender offer, adhering to the rules of the mandatory tender offer regime.

The Securities Market Law also outlines specific circumstances where the obligation to make a mandatory tender offer is exempt. These exemptions apply to:

(i) Acquisitions where control of the Target is achieved through capital increases via the issuance of new shares.
(ii) Acquisitions resulting from a merger, inheritance transfer, forced sale, or foreclosure.
(iii) Acquisitions by a third party of shares sold by the controller. To qualify for this exemption, the shares must have market presence, and the purchase price must be paid in cash at a value not substantially higher than the market price. The market price is defined as the weighted average price of the shares traded between the 90th and 30th business days before the purchase date. A price is considered 'substantially higher' if it equals or exceeds 110% of the market price, as regulated by CMF's General Rule No. 101."

Additionally, tender offers for up to 5% of a Target's issued shares are exempt from certain requirements of the tender offer regime if they meet the following conditions: (i) the share transactions are conducted on a stock exchange; (ii) the share acquisition is carried out on a pro rata basis among shareholders who accept the offer; and (iii) the intended percentage does not grant the offeror control of the Target.

Procedure

A tender offer can be conducted either on a stock exchange or over the counter and must be extended, under the same conditions, to all shareholders of the Target or to all shareholders of the targeted series of shares.

Tender offers made under the mandatory regime are irrevocable, although the offeror may specify objective withdrawal conditions, which must be clearly outlined in both the prospectus and the public notice launching the offer.

The tender offer process begins with the publication of a launch notice in at least two national newspapers, becoming effective the following day. The offeror must also prepare an offering prospectus detailing the terms and conditions, which must be submitted to the CMF and local stock exchanges on the same day the tender offer notice is published, making it accessible to interested parties.

The tender offer period must last between 20 and 30 days, unless the Target has registered shareholders through depositary entities, in which case the period must be 30 days. This period may be extended once by the offeror, for a minimum of 5 and up to 15 additional days.

Shareholders may withdraw their acceptance of a tender offer by providing written notice before the deadline, and in such cases, the offeror must return all submitted documentation.

On the third day after the tender period expires, the offeror must publish a notice of the results in the same newspapers where the launch notice was published. This information must also be sent to the CMF and local stock exchanges on the same day. The sale and transfer of shares are considered complete on the date the outcome notice is published.

If the number of shares offered for sale exceeds the amount the offeror intends to purchase, the offeror will buy the shares from the selling shareholders on a pro rata basis.

Obligations of the Target

During a tender offer, the Target is subject to various restrictions and obligations outlined in the applicable regulations. For example, the Target must provide the offeror with an updated list of its shareholders. Additionally, each director is required to prepare an individual written report expressing their reasoned opinion on whether it is in the shareholders'

best interest to tender their shares. This report must be submitted to the CMF, the offeror, and the dealer manager of the tender offer, if applicable, and made publicly available.

Money Laundering Prevention Measures

Banking institutions, securities intermediaries, certain fintech service providers, and other financial entities are required to report suspicious transactions to the Financial Analysis Unit (UAF)[7] as soon as they become aware of such activities during their operations. This is part of the effort to prevent the misuse of the securities and financial markets for money laundering and terrorist financing.

These entities must comply with specific registration and compliance requirements in accordance with Law No. 19,913 and the regulations issued by the UAF. Under Law No. 19,913, a suspicious transaction is defined as 'any operation executed without an economic or legal basis, according to the norms and practices of a particular activity.'

The UAF has the authority to supervise and monitor reporting entities and may impose fines if they fail to comply with the obligations established by Law No. 19,913 and the UAF's regulations.

Additionally, the CMF imposes regulations on certain financial entities under its supervision, including measures for preventing money laundering and terrorist financing, as well as Know Your Customer (KYC) obligations.

Liability

The Securities Market Law establishes three types of potential liability for violations of its provisions: civil, administrative, and criminal. For legal entities, liability extends to their managers or legal representatives unless they can prove they did not participate in the sanctioned activity.

From a civil liability perspective, any person who suffers actual loss or damages due to a violation of the Securities Market Law, its supplementary regulations, or CMF rules is entitled to seek compensation through a civil court action. Board members, managers, officers, and auditors of publicly traded companies who violate the law or the company's bylaws are jointly liable for any resulting damages.

Violations of laws, regulations, or CMF orders may result in sanctions imposed by the CMF, including: (a) censure; (b) fines payable to the Treasury, up to: (i) 100,000 UF, or five times this amount in the case of repeat offenses for similar violations; (ii) 30% of the value of the sanctioned transaction; or (iii) twice the benefit obtained from the sanctioned transaction; and (c) in the case of licensed entities, suspension for up to one year, or revocation of their authorization, registration, or license.

7 (Unidad de Análisis Financiero - UAF)

Liability in Connection with Offering Documents

Under Chilean securities laws, issuers, securities intermediaries, stock exchanges, and any other party involved in the issuance, registration, or placement of securities in Chile must provide the information required by CMF regulations.

Any advertising or marketing materials used in the issuance or placement of securities must not "contain statements, references, or representations that could mislead, confuse, or induce error regarding the nature, prices, profitability, redemption, liquidity, collateral, guarantees, or any other characteristics of the securities being publicly offered or their issuer" (Article 65 of the Securities Market Law).

Information provided to investors and the public, including recommendations to buy, hold, or sell publicly offered securities, or information implying target prices, must adhere to CMF's General Rule No. 504. This includes requirements for disclosing conflicts of interest and detailing the professional knowledge and experience of those responsible for the information.

Liability for Insider Trading

To qualify as inside information under the Securities Market Law, three criteria must be met: (i) the information must pertain to one or more securities issuers, their business activities, or the securities they have issued; (ii) it must not have been disclosed to the market; and (iii) by its nature, it must be capable of influencing the market value of the securities. Additionally, inside information includes knowledge of decisions related to the acquisition, disposal, or acceptance/rejection of trade orders from institutional investors, as well as material facts disclosed to the CMF as reserved information .

Anyone who, by virtue of their position, activities, or relationships, has access to inside information must: (i) keep the information confidential, (ii) refrain from using it for personal or third-party benefit, and (iii) avoid buying or selling, directly or indirectly, securities related to the privileged information. Additionally, those with access to inside information are prohibited from: (i) executing transactions based on the information by acquiring or disposing of the relevant securities, for themselves or third parties, (ii) cancelling or amending trade orders for such securities, (iii) communicating the information to third parties, and (iv) recommending the purchase or sale of these securities.

The Securities Market Law presumes that certain individuals, due to their position, activities, or relationships, have access to privileged information.

Market Manipulation

Articles 52 and 53 of the Securities Market Law prohibit several actions deemed contrary to the law, including: (i) price manipulation, defined as actions intended to stabilize, fix, or artificially alter the price of a publicly offered

security, unless such actions comply with CMF regulations designed to promote market liquidity or depth; (ii) executing fictitious securities price quotations or transactions, whether conducted in the securities market or through private transactions; and (iii) engaging in transactions, or attempting to induce the purchase or sale of securities, through any fraudulent transaction, practice, mechanism, or scheme.

Criminal Liability in the Securities Market Law

The Securities Market Law outlines various actions that constitute crimes, generally involving:

- Issuing and manipulating false information: Includes issuing false information or certifications.
- Fraudulent transactions and price manipulation: Involves conducting false transactions or operations aimed at artificially altering the price of securities.
- Insider trading: Covers direct and indirect transactions based on inside information, including making recommendations to third parties.
- Fraud in the acquisition and custody of securities: Involves fraudulent actions in acquiring securities without meeting legal requirements and the misuse of securities held in custody.
- Fraud in financial roles: Refers to fraudulent conduct by securities intermediaries, risk rating agencies, and auditing firms.
- Altering or deleting financial documents.

With the recent enactment of Law No. 21,595, known as the "Economic Crimes Law," these offenses are now classified as economic crimes. This classification introduces stricter rules for determining sanctions. Additionally, starting September 1, 2024, both individuals and legal entities can be held criminally liable for committing these crimes.