SECURITIES MARKET

The legal framework for the Chilean securities market is contained in the Securities Market Law, Law Nº 18,045 on the Securities Market *(Ley de Mercado de Valores)*, and in the regulations and resolutions issued by the Superintendence of Securities and Insurance (*Superintendencia de Valores y Seguros* or SVS). These set forth the principles that should guide the actions of the regulator and all the participants in the market. The essential principles of the Chilean securities market are (i) transparency, (ii) accurateness, (iii) sufficiency and timely disclosure of information, (iv) guarantee of equal conditions for all market participants, and (v) investor protection.

PUBLIC OFFERING OF SECURITIES

In general, no person, whether resident or non-resident, national or foreign, may publicly offer, market, advertise or sell securities or securities brokerage services, within the boundaries of the national territory of Chile, unless in accordance with, and subject to, the Securities Market Law.

Securities Market Law requires that any public offering of securities must be preceded by the registration with the SVS of both the issuer and the relevant securities or class of securities being offered. The public offering of non-registered securities in Chile is prohibited. The Securities Market Law contains an overly broad definition of what constitutes a "public" offering of securities, defining it as one which is directed to the public generally or to certain sectors or specific groups thereof.

Exceptionally, the Securities Market Law accepts that certain offerings of securities will not constitute a "public offering". These exceptions are based on the number and type of investors that participate in the offering, the form in which the offering is communicated or materialised, and the amount of securities offered. In particular, SVS General Rule Nº 336 establishes that an offering of securities will be considered to be private as long as: (i) it fulfils certain reporting requirements set forth in the applicable regulation, (ii) it is not made by mass media, and (iii) is aimed at qualified investors.

Furthermore, the SVS has recently issued SVS General Rule Nº 345, which exempts the following public offerings from registration with the SVS: (i) equity instruments which represent at least 10% of the issuer's capital, when the conditions of the offering requires a minimum investment of 2% of the issuer's capital from each investor; (ii) domestic and foreign equity instruments of a company, its subsidiaries or affiliates or affiliates of its subsidiaries, as well as options for the purchase and sale of such instruments, when the offering is aimed at employees of the company, its subsidiaries or affiliates or affiliates of its subsidiaries; and (iii) offerings related to equity instruments of a company, its subsidiaries or affiliates or affiliates of its subsidiaries, as well as options for the purchase and sale of such instruments, when the offering is made to persons who are required to own such securities for the use and enjoyment of the facilities and infrastructure of the issuer, whose business or purpose is exclusively related to charitable, educational or sports activities.

To make a public offering, the Chilean securities laws require a license to conduct, offer, sell, advertise and provide brokerage services in Chile. It is required that any person or entity that publicly offers, sells or markets securities, securities brokerage or investment services within Chile be licensed by the SVS.

Securities deposit and custody services provided in Chile must be conducted by special business purpose companies (acting as custodians of publicly-offered securities) with the prior approval of the SVS.

The rendering of investment advisory, financial advisory, and asset management services do not require a license and are not subject to regulation.

SECONDARY MARKET

The Securities Market Law regulates stock exchanges and securities intermediaries which may be of two types, namely (a) *Corredores de Bolsa*, which are broker dealers that are members of a stock exchange and are authorized to trade on the exchange and off-the-exchange over the counter; and (b) *Agentes de Valores*, which are broker dealers that may only broker and deal off-the-exchange over the counter.

The main rules that govern both types of securities intermediaries are the same and apply to both, except that the rules and requirements that apply to *Corredores de Bolsa* are more cumbersome given their broader scope of authorised activities.

Licensing

Both types of securities intermediaries have to be licensed and are subject to the substantive provisions, requirements and formalities provided for in the Securities Market Law, and the regulations, supervision and administrative jurisdiction of the SVS. Nonetheless, licensed banks are exempt from this registration obligation with respect to their ancillary securities activities that are authorized in the General Banking Law. In the case of *Corredores de Bolsa*, these securities intermediaries are also subject to the self regulatory rules and regulations of the stock exchange of which they are a member or where they are otherwise authorized to operate.

The entity applying to be registered as a securities intermediary must post a bond to guarantee full compliance with its duties and obligations as a securities intermediary for the benefit of its present and future creditors related to brokerage activities.

Securities intermediaries must comply with and maintain the leverage margins, and creditor position, liquidity, solvency and net worth levels that the SVS may establish from time to time pursuant to general regulations.

In addition to be registered as a *Corredor de Bolsa*, the entity has to become a member of the Santiago Stock Exchange (SSE), a self-regulated mutual exchange, the Electronic Stock Exchange or any other authorised exchange; the securities intermediary therefore has to acquire a share in the relevant exchange and be admitted to membership. Alternatively,

it may enter into an operating agreement with any of the aforementioned exchanges. Pursuant to the Regulations of the SSE, in addition to the statutory bond referred to above, a *Corredor de Bolsa* that is a member of the SSE must pledge its share in favour of the SSE to guarantee the proper fulfilment of its stockbroker's duties and performance of brokerage transactions.

Compliance

Securities intermediaries are required to keep the books and registries stipulated in the applicable regulations of the SVS, and to provide the SVS with information on their transactions and operations. In addition, they are also required to submit financial statements on a periodic basis and to report to the SVS the opening and closing of offices or branches and any other information that the SVS may deem necessary.

The SVS maintains a public registry of presidents, directors, officers, managers and trustees of the entities that are subject to its supervision and jurisdiction, including securities intermediaries. These entities must update the information within 3 business days from the date of any change in the identity, office, designation or removal of any of the persons appearing on the file.

Basic operational duties and obligations

Securities intermediaries that broker purchase and sale of securities are personally liable to pay the purchase price or make delivery of the shares in the case of a sale, and in no event may the brokers claim lack of provision of funds or securities on the part of their clients.

Securities intermediaries are responsible for: the identity and legal capacity of the persons that transact securities business through their brokerage offices and facilities; the authenticity and integrity of the securities that they broker or trade in; the correct registration of the last holder of the securities brokered or traded in at the proper securities registry when applicable; and the authenticity of the last endorsement if applicable.

The SVS may permanently cancel or temporarily withhold or suspend the licence of a securities intermediary for up to one year if it so determines, pursuant to a reasoned decision or resolution.

SIMPLIFIED TAX REGIME

As a general rule, a non-resident person that invests in securities and financial instruments issued by a local entity and traded locally is generally required to obtain a tax identification number (RUT) and register with the Chilean Internal Revenue Service (*Servicio de Impuestos Internos - SII*). Accordingly, the foreign investor is required to register as a taxpayer in Chile and report the initiation of its investment activities to the SII. Furthermore, if a foreign investor in securities grants a power-of-attorney to any local person, including a broker, with authority to transact businesses in Chile on its behalf, the foreign investor will be deemed to have a "permanent establishment" in Chile which theoretically subjects the foreign investor to full bookkeeping and tax compliance obligations in Chile.

To facilitate foreign investment and provide relief from such burdensome registration and compliance requirements, the Tax Code and Income Tax Law authorize the SII to provide for a simplified registration and reporting regime, which is contained in SII Resolution Nº 36, whose main provisions are described below.

Resolution Nº 36 provides for a simplified procedure for non-resident investors to obtain a tax identification number and an exemption from the obligation to give notice of initiation of activities or to keep accounting records and make annual tax filings in Chile. It applies to foreign investors that obtain Chilean source income from, among other things, investments and transactions such as purchase and sale of shares of public traded companies, investments in debt instruments, derivatives, mutual funds, etc.

Foreign investors are required to designate a local agent (Tax Agent). The designated Tax Agent may be a commercial bank, stockbroker, securities firm, fund manager or other qualified entity. The Tax Agent is responsible for the tax compliance obligations of the foreign investor, such as tax withholding obligations, tax filings and payments, annual and monthly reporting obligations, and any sanctions imposed in the case of violations.

Eligible foreign investors must execute an affidavit stating that the foreign investor has not previously obtained a RUT number under this or any other tax regime. Foreign investors must also enter into an agreement with a Tax Agent specifying that the Tax Agent will: keep a registry of the investments, transactions, withholdings, filings and returns on behalf of the investor; declare and pay the applicable taxes during the life of the agreement (even if the withholding taxes were not withheld by the person legally obliged to do so); and report to the SII about compliance with the requirements of the Resolution.

CONTROL - TAKEOVERS

Even though "control" is not defined under Chilean laws, its meaning can be construed from the definition of "controller" set forth in the Securities Market Law. This provides that the controller of a company is any person or group of persons with a joint action agreement that, directly or through other persons or entities, participate in the ownership of the company and are able to either: (i) ensure the majority of votes in shareholders' meetings and elect the majority of the directors, or (b) decisively influence in the management of the company.

Regulations on tender offers (*Oferta Pública de Adquisición de Acciones - OPA*) set forth in the Securities Market Law apply to direct and indirect acquisitions of a controlling package of shares of a public traded company (Target).

Tender offers regulated by the law may be voluntary or mandatory. The first occurs when a person voluntarily makes an offer to acquire shares or convertible securities of the Target to its shareholders (Acquirer), under conditions that may allow the Acquirer to reach a certain percentage of the Target within a specific period. The mandatory tender offers are established by the law.

Mandatory tender offers

According to the Securities Market Law, it is necessary to execute a tender offer in the following scenarios:

- when an acquisition allows a person or company to take control of the Target;
- if, as a consequence of the purchase of shares, a person or a company acquires 2/3 or more of the total shares of a company. However, the law exempts certain cases from this type of mandatory tender offer;
- the acquisition of a company that has 75% or more of the consolidated asset value of a public traded company requires the Acquirer to make a tender offer for the controlled company; and
- the controller of the Target who has acquired control through a tender offer or other operation may not acquire 3% or more of the shares of the Target, for 12 months following the tender offer or the operation by which the controller acquired the control, unless such new offer is executed through a new tender offer.

Exemptions

The Securities Market Law regulates certain circumstances that are exempt from the obligation to make a tender offer. These exemptions are applicable to:

- an acquisition in which the control of the Target could be achieved from capital increases through the issuance of new shares;
- acquisitions derived from a merger, by cause of death and forced transfer; and
- an acquisition, by a third party, of shares that are sold by the controller. The shares must have market presence; the purchase price must be paid in cash; and must not be substantially higher than the market price. The price is considered "substantially higher", when there is a 10% or more difference with the market price per share.

Procedure

The tender offer may be made within or outside a stock exchange and may be directed to all the shareholders of the Target or to shareholders of certain series of shares (including the holders of ADRs or shares listed on foreign stock exchanges), under the same conditions for all the shareholders of the same series. During the validity of the tender offer, the Acquirer must only acquire shares of the Target through the procedure established for the tender offer and may not use a different procedure.

The purchase price may consist of cash or publicly offered securities. The payment must be made pro rata, that is, if the number of shares offered for sale exceeds the number of shares offered to purchase, the Acquirer will acquire the shares from each shareholder as a result of applying an apportionment factor, by dividing the number of shares offered to buy by the total number of shares received.

In general, a tender offer is irrevocable, unless the causes for revocation are not subject to the sole discretion of the Acquirer and have been referred to in the offering prospectus. There are certain other cases contemplated by the applicable regulation where the tender offer may not be irrevocable.

The tender offer procedure starts with the publication of a "Notice of Initiation", in at least two national newspapers and the tender offer becomes effective the day after publication. The Acquirer must also prepare the offering prospectus containing all the terms and conditions of the tender offer, and make it available to any interested parties.

The duration of a tender offer may not be less than 20 days nor more than 30 days, unless the Target has registered custodian entities (for example, the depositary bank for ADR emissions), in which case the duration is 30 days. This period may be extended by the Acquirer once, for a minimum of 5 days and up to 15 additional days.

Once the tender offer finishes, the Acquirer must publish a notice in the same newspaper regarding its outcome and containing the requisites established in the applicable law and regulations. This information must also be sent to the SVS and stock exchanges on the date of its publication. This notice is deemed the acceptance of the Acquirer regarding the acquisition of the shares, as well as the acceptance of the shareholders; from this date on, the sale of the respective shares is understood to have been formalised. If the Acquirer does not publish this notice by the third day, the shareholders of the Target who have decided to sell their shares have the right to revoke its acceptance until the publication is made.

Shareholders' rights

The applicable regulation sets forth important rights for the shareholders of the Target:

- the shareholders may revoke the acceptance of the tender offer (totally or partially), by giving notice in writing until its deadline, in which case, the Acquirer must return all documentation received from them; and
- if the Acquirer acquires shares on more favourable terms for sellers than those established for a tender offer (for example, if the Acquirer pays a higher price), the remaining shareholders of the Target may request compensation from the Acquirer for the price difference.

Obligations of the target

During the term of the tender offer, the Target is affected by a number of restrictions and obligations set forth in the applicable regulation. Principally, the Target must provide to the Acquirer an updated list of its shareholders, and each one of the directors of the Target must prepare a written report with a founded opinion relating the convenience for the shareholders of tendering to the offer. This report must be communicated and made publicly available to the SVS, to the Acquirer and the organiser of the tender offer, if applicable.

ANTI-MONEY LAUNDERING

Banking institutions, securities intermediaries and other financial entities must report to the Financial Analysis Unit control agency (*Unidad de Análisis Financiero - UAF*) as soon as they become aware of suspicious transactions observed in the course of their business activities, in order to prevent the use of the securities and financial markets

as a means to carry out activities related to money laundering and the financing of terrorism. These reporting entities must comply with special registry requirements in accordance with Law Nº 19,913 and the regulations issued by the UAF. According to Law Nº 19,913, a suspicious transaction is "any operation that, according to the uses and customs of a particular activity, is executed without an economic or legal basis".

The UAF has the authority to supervise and control the activities of the reporting entities, and may impose fines on entities if they do not observe the obligations stipulated in Law 19,913 and the instructions issued by the UAF.

LIABILITY

Anti-fraud provisions

The Securities Market Law provides for three types of potential liability for a violation of the statutory provisions of the Securities Market Law, namely civil, administrative and criminal.

Purely civil actions that may arise from a failure to observe the disclosure requirements and standards of the law will encounter significant difficulties. The general regulations of the SVS regarding the scope, contents and accurateness of the information to be provided by issuers of securities, their officers and advisors in the various registration documents and offering materials during the process of issuing securities are very modest. Moreover, in order to impose any type of liability the law imposes a very significant evidence standards requirement.

Furthermore, there are certain practical and legal factors that typically lead to the practical result that civil liability claims for misleading information, misstatements or omissions of materials facts in securities law violations are seldom sought, let alone enforced by the courts.

First, judges in the civil courts of Chile are generally unfamiliar with the intricacies of the securities laws and regulations. Secondly, civil claimants are not entitled to a class or collective action to seek redress to compensate for the large costs and risks of securities litigation. Thirdly, there is no jury trial, nor discovery, nor are there the other procedural rules and practices that in other legal systems make it possible for claimants to prove their case.

As a result, unless there is a manifest and gross misstatement or omission of a material fact in the fairly modest information that is required by the regulations currently in place, violations of the law seldom give rise to any cause of action seeking civil damages in court.

Considering the above, local practice is that the affected parties will wait for the SVS to file charges and seek administrative sanctions on the issuer, its directors, executives and advisors, where the fines can then be used as a basis to file a civil action to recover damages, which are only actual pecuniary losses, never penalty damages or other amounts.

ABILITY IN CONNECTION WITH OFFERING DOCUMENTS

nder Chilean securities laws, the issuers, and their directors, officers, placement agents ıd financial advisors, that participate in the issuance, registration and placement of :curities in Chile (as opposed to their placement in another jurisdiction) have an obligation › provide the data and information that the regulations of the SVS require. Such data ıd information may not "contain any statements, references or representations that may ıduce to error, mislead or confuse the public with respect to the nature, price, profitability, :demption, liquidity, collateral or guaranties, or regarding any other characteristics ertaining to the securities being publicly offered" (Article 65 of the Securities Market Law). ırthermore, issuer filings and disclosures with the SVS must indicate the identity of the irectors, officers, placement agents and advisors of the issuer, and bear a certification nder oath of its veracity or truthfulness signed by each of the chief officers and directors.

iability for selective disclosure

.rticle 13 of the Securities Market Law imposes a strict confidentiality obligation on the irectors, officers and, generally, any other person who by reason of his office or position as access to the information of the company and its businesses that has not been officially iisclosed to the public by the company in accordance with applicable law, and is capable ıf influencing the price quotation or trading of its securities. Nevertheless, relevant ıformation can be selectively disclosed in the course of direct negotiations with customers ır suppliers and, in general, if disclosed restrictively under a confidentiality agreement as nay be necessary in order to achieve the businesses goals of the company. The violation of his prohibition by company officers and directors makes them subject o fines by the SVS.

'he Securities Market Law and its regulations define two additional categories of corporate ıon-public information, namely material or "essential" information, and information "of nterest". Selective disclosure of material or "essential" information to some investors and ıot others would constitute a violation of the securities laws that prohibit the disclosure ɔf non-public "essential" information unless the disclosure has been made or is made ıt the same time to the regulator and the public. The recipient of non-public "essential" nformation would be in possession of insider information; the use of this to obtain a gain ɔr avoid a loss is punishable as a crime and also gives rise to administrative and civil liability.

n the case of information "of interest", General Rule Nº 30 of the SVS provides that this is any information that without having the materiality of "essential" information, is useful for the adequate analysis of the financial condition of the corporation, its securities or their offering. If the corporation has not formally disclosed information "of interest" and any director, officer, manager or executive or any other external person or entity authorised by the management of the corporations directly or indirectly furnishes or gives access to such information to a specific person or group of persons or entities in the marketplace, the corporation has the obligation to simultaneously disclose that information to the regulator and the public. If it is not practically possible to perform the disclosure simultaneously, the corporation must make the disclosure as soon as practicable. Posting the information of interest visibly on a company website satisfies the public disclosure requirement.

Manipulation of stocks and financial instruments

Articles 52 and 53 of the Securities Market Law provide for a number of prohibitions relating to securities manipulation activities. These prohibitions are mandatory and can be described as follows: (i) No person or entity may perform securities transactions with the purpose of stabilizing, fixing or in order to cause artificial variations in the prices, except in the context of market making endeavours in the course of an initial public offering of newly issued securities or a secondary offering of securities that had not been previously offered to the public; (ii) No person or entity may perform fictitious price quotations or transactions with respect to any securities regardless of whether such transactions are carried out on an exchange, over the counter or in a private transaction; and (iii) No person or entity may perform transactions or induce or attempt to induce the purchase or sale of any securities, whether subject to this statute or otherwise, by means of any deceitful or fraudulent transaction, practice, mechanism or machination.

The violation of any of these statutory prohibitions gives rise to a criminal offense if actual intent and monetary gain on the part of the offender can be established. In addition, these violations also give rise to administrative and civil liability.