



Investing in Chile

By Bustamante Sinn Abogados

Establishing a company in a foreign country can be challenging in terms of designing the legal structure and organizing a streamlined and efficient incorporation process. Alliuris member firms provide corporate legal services, in particular for the formation of companies in their home country.

This article provides a brief overview of the legal framework for investments in Chile.

Legal framework

Chile is a model and pioneer for South America in the development of a policy to attract investment, supported by clear and stable legal mechanisms.

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In general, all forms of business activity are permitted for foreign investors, except for certain strategic sectors which require prior authorization. There are transparent regulatory policies towards investor activity, characterized by equal treatment for local and foreign agents. In addition, foreign investors can also make use of and benefit from the agreements, treaties, and conventions that Chile has signed with other nations, including Free Trade Agreements, Bilateral Investment Promotion and Protection Agreements, and International Tax Treaties.

Investment vehicles in Chile are distinguished as follows:

- Foreign investor agencies in Chile, which maintain the legal personality of the investor; and
- Corporations that grant a legal personality separate from the investor: such as jointstock companies ("*sociedades anónimas*" or "S.A.") and corporations by shares ("*sociedades por acciones*" or "SpA").

Representation Agencies

To establish a representation or agency in Chile, it is required that the agent or legal representative of the foreign investor execute certain documents before a notary in Chile, as specified by law, which must be legalized by a consulate or apostilled, as well as translated if they are not in Spanish.

No minimum capital is required for the establishment of agencies in Chile, and it is not necessary to have it fully paid at the time of establishment.

The administration of the agency will be under the responsibility of the agent, who will have broad powers.

There are no specific limitations for the profit distribution, and the agency is only required to comply with tax obligations and the remittance of profits for foreign investors.

Joint-Stock Companies (S.A.)

A joint-stock company (S.A.) is a legal entity formed by the pooling of capital, provided by two or more shareholders, who may be natural or legal personas, either domestic or foreign, and whose liability is limited to the amount of their respective contributions. They are constituted by public deed, which must include, among other elements specified by law, the capital, the number of shares into which it is divided, the form of administration, and the method of distributing profits.

The capital of joint-stock companies is divided into shares, which in principle can be freely transferred unless certain restrictions are agreed upon through a shareholder agreement or in the company's bylaws.

The amount of capital for the establishment of joint-stock companies can be freely determined by the shareholders, with no minimum capital requirement for the incorporation. The capital may consist of money or other assets. However, the deadline for capital payment is, in principle, three years from the date of incorporation. If not paid within the specified period, the capital will be automatically reduced to the amount that has actually been subscribed and paid.

The administration of the joint-stock company is carried out by a board of directors elected by the Shareholders' Meeting, which also has the power to remove them. The board of directors represents the company with all the powers of administration and disposition not reserved for the Shareholders' Meeting by law or the company's bylaws.

Corporations by Shares (SpA)

The corporation by shares (SpA) was created in 2007 as simplified form of joint-stock companies, particularly for venture capital companies. It is a legal entity formed by one or more shareholders, who can be natural or legal persons, Chilean or foreign, and are only responsible up to the amount of their respective contributions to the company. This legal structure has a more flexible management compared to joint-stock companies, facilitates the circulation of shares in the market, can be formed by a single shareholder, among other advantages.

Corporations by shares are incorporated by public deed or by a private instrument authorized before a notary public, which must include essentially the same elements as those required for the incorporation of joint-stock companies.

The capital is divided into shares, but unlike a joint-stock company, the deadline for the capital payment may be set by the shareholders in the company's bylaws. If nothing is specified, the capital must be paid within five years from the date of incorporation. If not paid within the stipulated period, the capital will be automatically reduced to the amount that has actually been subscribed and paid.

Corporations by shares have the form of management freely determined by their shareholders.

Corporation by shares may freely establish the method for distributing dividends.

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