



## Executive Summary

Chile is an attractive destination for investors, boasting an open market economy, well-developed institutions that support financial growth and strong rule of law. The country has a positive disposition toward foreign direct investment (FDI), viewing it as key to sustaining Chile's impressive economic trajectory over the last two-plus decades. Its laws and regulations encourage investment by foreigners and very few restrictions upon FDI exist. Chile's conversion and transfer policies are similar to those found in highly-developed countries like the U.S. The government does not expropriate assets or holdings.

Chile's legal framework for attracting and protecting FDI is solid. Disputes can, however, take several years to reach conclusion in the courts, making arbitration and mediation attractive alternatives for resolving business controversies. Chile is party to the New York Arbitration Convention and the International Centre for Settlement of Investment Disputes (ICSID) convention; disputes under the U.S.-Chile bilateral Free Trade Agreement (FTA) are resolved under the latter framework. Chile is compliant with its WTO/TRIMS obligations. Chile does not apply performance requirements in reviewing proposed investment projects.

Rights to the broad range of private ownership and establishment are observed in Chile. Mineral, hydrocarbon, and fossil fuel deposits within Chilean territory cannot be owned by, but can be licensed by the government to private enterprise. Real and intellectual property (IP) rights are generally respected, but Chile is not fully compliant with the obligations concerning IP set forth in the U.S.-Chile FTA. The regulatory system in Chile is generally transparent.

Chile's capital markets are well-developed and open to foreign portfolio investors. The World Economic Forum's Global Competitiveness Report for 2013-2014 ranks Chile as the most competitive country in South America. CODELCO, which dominates the lucrative copper mining industry, is one of only a few state-owned enterprises (SOEs). SOEs generally operate on equal footing with private companies. There is growing awareness of the importance of corporate social responsibility in Chile. Political violence is rare and is unlikely to affect foreign investors. Corruption exists in Chile but on a much smaller scale than is the case with most Latin American countries. Chile ranks 22<sup>nd</sup> of 177 countries on Transparency International's 2013 Corruption Perceptions Index (with 1 being the lowest perception of corruption).

Chile has 40 bilateral investment agreements in force, including a 1984 agreement with the United States, through the Overseas Private Investment Corporation (OPIC). Chile is a party to the convention of the World Bank's Multilateral Investment Guarantee Agency (MIGA). A treaty between the U.S. and Chile to avoid double taxation has been signed but not yet ratified. Chile's labor laws are viewed by some employers as cumbersome. Unemployment is low, at 5.7 percent at the end of 2013. Chile has tax-free zones.

According to the UN Conference on Trade and Development (UNCTAD), FDI inflows to Chile in 2012 reached USD 27.1 billion, and fell to USD 20.4 billion in 2013. Total FDI stock from the U.S. stood at USD 39.8 billion in Chile at the end of 2012.

## **1. Openness to, and Restrictions upon, Foreign Investment**

### ***Attitude Toward FDI***

For over three decades, Chile has made FDI an essential part of its national development strategy. Chile's sound, market-oriented policies have created significant opportunities for foreign investors to participate in the country's steady economic growth. Chile's business climate is generally straightforward and transparent. Foreign investors receive treatment similar to Chilean nationals, and there is no overall economic or industrial strategy that has discriminatory effects on foreign investors or foreign-owned investments. A broad political consensus on the advantages of foreign investment means that Chile's policies toward FDI are unlikely to change.

### ***Laws/Regulations of FDI***

FDI in Chile enters under either the Foreign Investment Statute Decree Law 600 (DL600) or Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations (CFER). The minimum investment under DL600 is USD 5,000,000 in currency and USD 2,500,000 in the case of fixed assets, technology, debt capitalization, and profit reinvestments. FDI valued below these levels but above USD 10,000 is made through Chapter XIV of the Central Bank's CFER.

Chile's openness and transparency to FDI are embodied in DL600. This law has been the main regulatory norm for FDI in Chile during the last 40 years. At the time of publication of this report, the Chilean Congress is debating a bill that could do away with DL 600.

Under DL600, a foreign investor signs a contract with the Government of Chile (GOC) establishing the terms of the investment. The general regulations, terms, interest, and other modalities of foreign credit contracts as well as surcharges related to total costs to be paid by the debtor, including commissions, taxes, and expenses must also be authorized by the Central Bank of Chile. DL600 allows for capital increases in a given investment. A principle benefit of investing under DL600 is the option to lock in a ten-year, invariable total effective income tax rate (of 42 percent in 2013).

Chile's Foreign Investment Committee (FIC), the entity responsible for administering DL600, establishes the terms and conditions of investments made under DL600. Applications are typically approved within a matter of days and almost always within a month. The FIC's authority to reject a foreign investment is limited by the Chilean Constitution. The FIC's decision can be appealed if an investment is rejected.

Use of DL600 is optional; an investor can choose to go through Chapter XIV of the Central Bank's regulations if so desired. Chapter XIV establishes regulations that govern foreign exchange operations related to credits, deposits, investments, and capital contributions originating abroad. Investments made under Chapter XIV do not involve signing a contract with the Chilean state. Instead, the Central Bank grants authorization for a given investment. FDI made under Chapter XIV must be in a foreign currency and does not convey any special rights to

the investor, such as access to a guaranteed tax rate. The investor must inform the Chilean Central Bank of the investment through a commercial bank or other authorized financial institution. FDI valued at less than USD 10,000 does not require Central Bank approval.

In 2002, the Chilean Government launched an Investment Platform Initiative (“the Initiative”) aimed at attracting international corporations' Latin American headquarters to Chile. As part of the Initiative, an eligible company can make use of a variety of incentives, including tax exemptions for overseas shareholders based on certain criteria and a lack of restrictions on domestic borrowing by a platform company. The Initiative addresses the problem of three-way taxation by exempting platform companies from Chilean tax on overseas earnings and provides foreign investors with additional incentives to invest in Chile. This Initiative is meant to foster regional joint ventures between foreign investors and Chilean partners. To facilitate the entry of foreign capital into Chile, the Initiative also allows companies that are already established in the region to move their centers of operation to Chile without incurring the transaction costs involved in selling and re-buying assets.

Foreign investors are unlikely to experience government interference in Chile’s legal system.

### ***Industrial Strategy***

The Chilean government seeks to attract foreign investment to **industrial and mining sectors** through tax incentives. For example, subject to approval on a case-by-case basis by the Foreign Investment Committee, a foreign investor can lock in a ten-year invariable tax rate (42 percent in 2013) for up to 20 years, as opposed to the maximum ten-year limit afforded to investments in other sectors under DL600. For more information about benefits of investing in **industrial development and the extractive industries**, see DL600,

[http://unctad.org/sections/dite\\_dir/docs/wir2013/wir13\\_fs\\_cl\\_en.pdf](http://unctad.org/sections/dite_dir/docs/wir2013/wir13_fs_cl_en.pdf). See the FIC’s “Foreign Investor Guide” for information about tax treatment and foreign investments generally: [http://www.ciechile.gob.cl/wp-content/uploads/2010/10/Foreign\\_Investors\\_Guide\\_in\\_Chile.pdf](http://www.ciechile.gob.cl/wp-content/uploads/2010/10/Foreign_Investors_Guide_in_Chile.pdf).

### ***Limits on Foreign Control***

There are no limits on foreign ownership or control of business entities or assets in Chile. See the “Right to Private Ownership and Establishment” section, below, for restrictions applicable to all investors.

Certain types of investment projects require additional authorization beyond that of the FIC and the Central Bank. There are no restrictions on foreign investment in telecommunications, but investors must acquire a license, and the number of licenses available is limited in some new sectors of the industry. The requirements for obtaining certain licenses in the **telecommunications sector** remain unclear as the industry evolves; at least one U.S.-based firm experienced significant delays in 2013 attempting to secure licenses due to opaque license granting requirements. Projects in the **copper mining sector** require the Chilean Copper Commission's authorization; investments in the **fishing sector** require the approval of the Under-Secretariat of Fishing; authorization from the Bank and Financial Institutions Regulatory Agency is required to operate in the **banking sector**; and the Securities and Exchange Commission must authorize projects related to **insurance and investment funds**. Additional authorizations are required from the **Pension Funds and Private Health Insurance** regulatory agencies to

participate in those sectors. For projects with a potential **environmental** impact, authorization is required from the Environmental Evaluation Service, a decentralized service related to but independent from the Ministry of Environment. Chile also maintains national security related restrictions on investments in the areas of **nuclear energy, defense, maritime transportation, real estate, and mining.**

Profit remitted, withdrawn or distributed to foreign investors is subject to a withholding tax. Dividends paid to foreign shareholders are subject to an additional 35 percent tax on distribution, but a credit of 20 percent is given against the additional tax where the amount at issue is subject to Chile's First Category tax. The company must withhold the additional tax. The same tax procedure applies to remittances of profit made to partners and to profit withdrawn by foreigners. As noted, though, the effective tax rate – including taxes on remittances - for foreign investment occurring through DL600 can be capped at the ten-year invariable rate (42 percent in 2013).

### ***Competition Law***

Foreign investors are not required to seek a ruling on the potential competition implications of a planned investment before investing. Chile's anti-trust law, the Chilean Free Competition Act (1973), prohibits mergers or acquisitions that would prevent free competition in the industry at issue. An investor may voluntarily seek a ruling by an Antitrust Court that a planned investment would not have antitrust implications.

### ***U.S.-Chile Free Trade Agreement***

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. The chapter on investment is modeled on the standards found in agreements throughout the world such as U.S. bilateral investment treaties and customary international law. The main objective of the FTA chapter is to provide stability and security to investors. It provides six basic forms of protection:

- Non-discriminatory treatment, based on national treatment and most-favored-nation treatment, for investors from either country;
- Freedom from performance requirements;
- Free transfer of investment funds;
- Expropriation only when consistent with international law;
- A minimum standard of treatment in customary international law; and
- The ability to hire key managerial and technical personnel without regard to nationality.

**TABLE 1**

Measure	Year	Ranking
<a href="#">Transparency International Corruption Perceptions Index</a>	2013	22
<a href="#">Heritage Economic Freedom</a>	2014	7 (five spots ahead of U.S.A.)
<a href="#">World Bank Ease of Doing Business</a>	2013	34

## **2. Conversion and Transfer Policies**

Chile's regulations ensure that capital markets are well developed and open to both foreign portfolio investment and FDI. In May 2000, Chile eliminated the one-year withholding period requirement for foreign capital entering the country under Chapter XIV. This type of investment capital may now be repatriated immediately without penalty.

A second major initiative in 2000 was the discontinuation of the use of the "encaje," or lock-in, which required foreign investors to deposit 30 percent of foreign-sourced loans and portfolio investment with the Central Bank in a non-interest-bearing account for up to two years. The Central Bank reserves the right to re-impose the "encaje" mechanism if needed in the future.

Over a decade ago the Chilean government delivered important reforms and measures aimed at promoting savings in investment securities, including by exempting capital gains taxes on highly traded stocks of publicly traded companies, lowering taxes for foreign investors on interest payments, and advancing the integration of Chilean capital markets with the international financing market.

A second set of reforms introduced in 2005-06 was aimed at promoting broader financing alternatives for high growth, emerging companies (small- to medium-sized enterprises, SMEs) and providing tax incentives for the development of a local risk capital fund management industry. In June 2007, the GOC passed Law 20.190, which introduced tax incentives to promote venture capital. The law improves the availability of financial resources for SMEs and provides tax benefits to public as well as private venture capital funds. Law 20.190 authorizes Chile's Development Promotion Agency (CORFO, [www.corfo.cl](http://www.corfo.cl)) to take an equity position of up to 40 percent in specialized venture capital funds. It also allows banks to invest up to the equivalent of one percent of their asset base in venture capital through investment fund administrators and subsidiaries.

A third capital markets reform was introduced in 2010, aimed at increasing security levels of financial transactions and reinforcing regulatory and supervision capabilities. This set of reforms enhanced competition in the credit market by increasing available credit instruments and improving consumer information. The reform also increased liquidity, deepened credit markets, improved flexibility for investment funds, created Exchange Traded Funds (ETFs), allowed access to secondary markets, and fostered investment in mutual and investment funds. Investors, importers, and others are guaranteed access to foreign exchange in the official inter-bank currency market without restriction.

The Central Bank reserves the right to deny access to the inter-bank currency market for royalty payments in excess of five percent of sales. The same restriction applies to payments for the use of patents that exceed five percent of sales. In such cases, firms would have access to the informal market. The Chilean tax service reserves the right to prevent royalties of over five percent of sales from being counted as expenses for domestic tax purposes.

Under the Investment Chapter of the U.S.-Chile FTA, each government must allow transfers of covered investments to be made freely and without delay into and out of its territory. These include transfers of profits, royalties, sales proceeds, and other remittances related to the investment. However, for certain types of short-term capital flows, the chapter allows Chile to

impose transfer restrictions for up to 12 months as long as those restrictions do not substantially impede transfers. If restrictions are found to impede transfers substantially, damages accrue from the date of the initiation of the measure.

As a general rule, Chile does not engage in currency manipulation.

### **3. Expropriation and Compensation**

Chilean law grants the government authority to expropriate property, including property of foreign investors, only for public or national interests, on a non-discriminatory basis and in accordance with due process of law.

The law requires the payment of compensation without delay at fair market value, in addition to any applicable interest. The government has not nationalized a private firm since 1973.

### **4. Dispute Settlement**

#### ***Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts***

Chile's legal and regulatory framework provides for effective means for enforcing property and contractual rights. Laws governing issues of interest to foreign investors are found in several statutes, including the Commercial Code of 1868, the Civil Code, the Labor Code and the General Banking Act. Chile has specialized courts for dealing with tax and labor issues.

The judicial system in Chile is generally transparent and independent. The likelihood of government intervention in court cases is low. If a state-dependent firm is involved in the dispute, the GOC may become directly involved through the State Defense Council. In cases where courts determine a firm is bankrupt, a receiver is named to distribute the debtor's remaining assets to the creditors.

Judgments of foreign courts and binding international arbitration rulings are generally recognized and enforced by local courts.

#### ***Investment Disputes***

Disputes involving U.S. investors have been typically settled in negotiations between the investor and the appropriate government entity. Disputes have been referred to the local judicial system, although the time required for resolution may make this an unattractive option for foreign investors. Because of high case loads, understaffing and antiquated case-management procedures, resolution of business disputes in the civil court system can take four to five years. Accordingly, litigants often choose to settle out of court. Mediation and binding arbitration exist in Chile as alternative dispute resolution mechanisms. A suit may also be brought in court under expedited procedures involving the abrogation of constitutional rights.

The FTA Investment Chapter provides a mechanism for investors to pursue a claim against a host government that is in breach of the FTA's investment obligations, an investment agreement, or an investment authorization. An exception is disputes related to investment authorizations under DL600, which are *not* subject to this mechanism. Only agreements signed within two years

of the FTA's entry into force may make use of this mechanism. Under this section, the investor pursuing a claim may by right submit a claim under the International Center for Settlement of Investment Disputes (ICSID) Convention or under the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules. Any other mutually agreed upon arbitral institution may also be utilized. Rules agreed upon by the parties will govern the proceedings except to the extent that they are inconsistent with the FTA. An investor must give notice of intent to arbitrate at least 90 days before submitting a claim, and must wait at least six months from the time of the event which gave rise to the claim before initiating a proceeding. All claims must be brought within three years of the date when the claimant acquired knowledge of the breach and/or injury.

The FTA chapter on investments encourages consultations or negotiations before recourse to dispute settlement mechanisms. If the parties fail to resolve the matter, a claim for arbitration can be submitted by the investor. Provisions in Section C of the FTA ensure that the proceedings are transparent by requiring that all documents submitted to or issued by the tribunal be available to the public, and by stipulating that proceedings be public. The tribunal must also accept amicus curiae submissions. The FTA chapter on investments establishes clear and specific terms for making proceedings more efficient and avoiding frivolous claims. Chilean law is generally to be applied to all contracts. However, arbitral tribunals decide disputes in accordance with FTA obligations and applicable international law.

### ***International Arbitration***

Chile is party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

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## **5. Performance Requirements and Investment Incentives**

### ***WTO/TRIMS***

Chile has not notified the World Trade Organization of any measures inconsistent with its Trade Investment Measures (TRIMS) requirements, and does not maintain measures alleged to violate the country's TRIMS obligations.

### ***Investment Incentives***

Chile does not subsidize foreign investment. There are, however, some incentives linked to isolated geographical zones and to the information technology sector. These benefits relate to co-financing of feasibility studies as well as to incentives for the purchase of land in industrial zones, the hiring of local labor, and the facilitation of project financing. Other important incentives include accelerated depreciation accounting for tax purposes, special tax treatment for retained earnings, and legal guarantees for remitting profits and capital.

Chile has other special incentive programs aimed mostly at promoting investment and employment in remote or disadvantaged regions, the development of new businesses, support for micro-, small-, and medium-sized enterprises, and promotion of technological innovation.

Since 2001, the Chilean Economic Development Agency (CORFO) has implemented the "Chile Invests" plan with the goal of fostering FDI outside the Santiago Metropolitan Region in certain

sectors. A key objective of the plan is to encourage investment in areas of non-traditional technology such as biotechnology, research and development of new materials, electronics and engineering processes, and new production techniques to increase the value added to natural resource exports. The plan also promotes investment in the energy sector mainly for non-conventional renewable energy projects. CORFO provides co-financing programs to pre-investment feasibility studies for projects using renewable non-conventional energy resources. See CORFO's website for more information about its investment incentive programs: <http://www.english.corfo.cl/programs>

The Arica Law of 2001 grants tax credits to companies in the provinces of Arica and Parinacota. Investment projects amounting to over 2,000 UTM (about USD 148,000) in Arica are eligible for a tax credit of 30 percent of the value of the fixed physical assets (40 percent for tourism projects). Investment projects totaling more than 1,000 UTM (about USD 74,000) in Parinacota are eligible for a tax credit of 40 percent of the value of the fixed physical assets. These incentives are available until December 31, 2030. [NOTE: The Unidad Tributaria Mensual (UTM) is an inflation-indexed measure of value, adjusted on a monthly basis. On April 22, 2014, 1 UTM was equivalent to about USD 74.

A third investment promotion plan for the province of Tierra del Fuego in Region XII (Magallanes) is available for mining, manufacturing, transport, fishing and tourism companies that produce goods or services made up of at least 25 percent of local labor and inputs.

Other investment incentives have been introduced through the "Chile Competes Plan." The Plan includes an exemption from the income tax normally paid by institutional investors, such as mutual funds and pension funds, on earnings from the transfer of corporate stock that is publicly traded, or bonds or other publicly offered securities representing debt issued by the Central Bank of Chile, the Chilean Government, or by companies incorporated in Chile.

In January 2011, the Ministry of Economy, through CORFO, established a USD 40 million program, known as "StartUp Chile," whereby selected entrepreneurs receive a USD 40,000 grant and a Chilean work visa to develop a "start up" business in Chile. Upon admittance into the program, an entrepreneur is given six months to develop a project and then promote it through a series of pitches and seminars at local universities, corporate meetings and other community outreach.



### ***Performance Requirements***

Neither Chile's Foreign Investment Committee nor the Central Bank applies performance requirements in its review of proposed investment projects.

The investment chapter in the U.S.–Chile FTA establishes rules prohibiting performance requirements that apply to all investments, whether by a third party or domestic investors. The FTA investment chapter also regulates the use of mandatory performance requirements as a condition for receiving incentives and spells out certain exceptions. These include government procurement, qualifications for export and foreign aid programs, and non-discriminatory health, safety, and environmental requirements.

## **6. Right to Private Ownership and Establishment**

Except for the limitations in the fisheries and media sectors noted above, Chile does not, in general, restrict the right to private ownership or establishment. Section 24 of Article 19 of the Constitution establishes, however, the “absolute, exclusive, inalienable and permanent domain” of the Chilean state over all mineral, hydrocarbon, and fossil fuel deposits within Chilean territory. Under Chilean law, the government may grant concession rights to individuals and companies for exploration and development of these natural resources for a finite period. There are also national security-related measures regarding the purchase of real estate by foreigners near land borders with Chile’s neighbors.

## **7. Protection of Property Rights**

### ***Real Property***

Secured interests in property, both movable and real, are recognized and generally enforced in Chile. There is a recognized and generally reliable system for recording mortgages and other forms of liens. Chile ranked 55 out of 146 countries in the World Bank’s 2013 Doing Business report for property registration.

### ***Intellectual Property***

Because of concerns about its commitment to the protection of intellectual property rights (IPR), Chile has been on the Special 301 Priority Watch List (PWL) since January 8, 2007. The Chilean government has undertaken a number of legislative reforms to strengthen its IPR regime and bring it in line with international commitments, including the U.S.-Chile Free Trade Agreement (FTA). However, there are still substantive deficiencies in Chile's IPR laws and enforcement of existing IPR protections. Of particular concern are inadequate patent and test data protection in the pharmaceutical sector; the lack of an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products; circumvention of technological protection measures; piracy of music and software, particularly over the internet; Chile’s failure to protect encrypted program-carrying satellite signals, including its failure to address the sale of pirate satellite decoder boxes; and inadequate protection for plant varieties. The 2014 Special 301 Report on IPR is available on the USTR website at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2014>.

Chile has been a member of the World Intellectual Property Organization (WIPO) since 1975 and joined the Treaties on Copyright and Performances and Phonograms in April 2001. Chile approved legislation to comply with TRIPS obligations related to industrial property in December 2004. The law provides, among other protections, for expedited court proceedings and the authority to seize illegal copies of patented products. In 2008, Chile ratified the Patent Cooperation Treaty (PCT), which came into force in June 2009.

The U.S. and Chile have committed to making a system available for the resolution of disputes regarding internet domain names. This follows international standards with respect to problems such as the cyber piracy of brands and trademarks for country domain names. Furthermore, both countries committed to creating a database containing information on individuals who have registered higher-level domain names. This database will protect the personal data of those who have registered.

It is generally easy for investors to register intellectual property – including copyrights, trademarks, patents and trade secrets.

For additional information about treaty obligations and points of contact at local IP offices, please see Chile's WIPO country profile at:

[http://www.wipo.int/directory/en/details.jsp?country\\_code=CL](http://www.wipo.int/directory/en/details.jsp?country_code=CL)

Inquiries regarding intellectual property issues in Chile can be addressed to:

Alexander Bryan  
Economic Officer  
U.S. Embassy, Santiago  
(56)-(2)-2330-3397  
[BryanAT@state.gov](mailto:BryanAT@state.gov)

Local lawyers list: <http://chile.usembassy.gov/medical-legal.html>

Useful information on IP issues in Chile can also be found from the American Chamber of Commerce in Chile, <http://www.amchamchile.cl/node/110125>.

## **8. Transparency of the Regulatory System**

Chilean regulatory systems tend to be transparent, and government regulators generally have little discretion in carrying out their duties. While rulemaking processes do not generally include formal provisions for public hearing or comment. The World Bank's "Doing Business 2014" report ranks Chile 22<sup>nd</sup> of 189 economies (after ranking 30<sup>th</sup> in 2013) for ease of starting a business. The U.S.–Chile FTA establishes some additional obligations for transparency in regulatory processes.

## 9. Efficient Capital Markets and Portfolio Investment

Chile's capital markets are well-developed and open to foreign portfolio investors. Credit is allocated on market terms and is available to foreigners, although the Central Bank does reserve the right to restrict foreign investors' access to internal credit if a credit shortage exists. To date, this authority has not been exercised.

Publicly traded Chilean companies attract substantial international investment.

Under the U.S.-Chile FTA, U.S. insurance firms have full rights to establish subsidiaries or joint ventures for all insurance sectors, with limited exceptions. A program was undertaken to phase in insurance branching rights and to modify Chile's legislation to open cross-border supply of key insurance sectors such as marine, aviation, and transport insurance, and insurance brokerage of reinsurance.

U.S. banks and securities firms are allowed to establish branches and subsidiaries and may invest in local firms without restriction, except under very limited circumstances. U.S. financial institutions are also able to offer financial services to citizens participating in Chile's privatized voluntary saving plans, and they have gained increased market access to Chile's mandatory social security system. U.S.-based firms are allowed to offer services in Chile in areas such as financial information, data processing, and financial advisory services, with limited exceptions. Under the measures outlined in "Capital Market Reform III," Chilean mutual funds are permitted to use foreign-based portfolio managers.

In May 2011, the stock markets of Chile, Peru and Colombia merged to become the second largest trading market in Latin America after Brazil. This market alliance, known as the Integrated Latin American Market (MILA) hopes to better expose investors to assets linked to the region's natural resources. Chile's IPSA Index is a total return index and is composed of 40 highly traded stocks. The IPSA has been calculated since 1977 and is revised on a quarterly basis.

The main institutional investors and suppliers of capital to local companies are the pension fund administrators (AFP) as well as insurance companies, mutual funds and banks. More than half of the instruments issued in the fixed-income market are held by institutional investors.

Pension funds are the largest institutional investors followed by insurance companies. As of March 2014, Chile's six AFPs managed a total investment portfolio of USD 161.9 billion, representing about 65 percent of Chile's GDP. The pension funds administered by the AFPs belong to 9.6 million participants, of which 5 million are contributors. As of March 2014, the total resources under AFP administration were distributed in five different types of funds of varying degrees of risk. As of July 2012, accumulated savings in the voluntary contributions system (APV) of the AFP system totaled USD 4.3 billion, belonging to 735,170 contributors.

The GOC has been raising the percentage of pension funds that can be invested overseas. In 2008, a reform package of the pension system was approved by Congress increasing the threshold for pension fund administrators to invest abroad (from 30 to 60 percent of their funds).

The reform package also set the foundation on which to build a “solidarity pillar” to increase coverage among lower-income contributors and self-employed workers and expand social security assistance coverage. Total spending in 2012 on “solidarity pension payments” reached USD 286.2 million.

As of September 2012, insurance companies managed more than USD 6 billion in assets. Insurance companies invest a major share of their portfolio in fixed-income securities.

The Chilean banking system is sound, competitive, and meets Basel standards. There are currently 23 banks operating in Chile, and 4 are foreign-owned representational branches. Only one bank is completely owned by Chilean economic interests (BCI). The rest have some level of incorporation with foreign institutions. Foreign banks can compete on the same terms as their domestic rivals. There are also seven local savings and loan corporations, and one state-owned bank, Banco Estado, which is the nation’s third largest. Private banks manage most corporate business.

The Chilean banking industry is subject to strict limits on lending to a single debtor or group of related companies. This is capped at five percent of the capital and reserves of a bank for collateral-free loans and at 25 percent for collateralized loans (fixed assets).

Summary of Chilean Banking System (September 2013):

Total Loans – USD 223 billion  
Deposits – USD 185.8 billion  
Total Assets – USD 302.4 billion

Source: Chile's Superintendence of Banks and Financial Institutions

General Information on the Financial Market

- Banks and Financial Institutions: 23 participants. Total Loans: USD 223. Billion
- Pension Funds: 6 administrators. Funds under management: USD 161.9 billion
- Insurance Companies: 56 (23 general insurers, 33 life insurers).

According to the World Economic Forum's Global Competitiveness Report for 2013-2014, Chile is the most competitive country of South America and the third most competitive of the Americas after the U.S. and Canada. Chile is ranked 34th in the world.

## **10. Competition from State-Owned Enterprises (SOEs)**

### *Chile's SOEs*

Chile has relatively few state-owned enterprises (SOEs), most having been privatized during the military government's economic reforms between 1974 and 1989. Notable SOE's are the national **copper** company, CODELCO; the national **petroleum** company, ENAP; the National **Postal System** (Correos de Chile); and the state-owned **bank**, Banco Estado.

In general, private enterprise is allowed to compete with public enterprise under the same terms and conditions (e.g., there are many private copper mines and private banks). However, there are specific areas where this does not hold and SOEs enjoy special advantages. For example, ENAP is the only **refining company** in Chile. SOEs spend a similar portion of their budget on research and development to the portion spent by private sector domestic and foreign companies in the same sector.

Most SOEs in Chile are structured so that the company management reports to a board of directors, which includes the relevant government minister (e.g., the Minister of **Mining** sits on ENAP's board of directors). Most board members are independent representatives from the private sector and academia, or from that industry's main labor union or trade association. Board members are usually designated by the President of Chile.

Chile passed a law in October 2009 which modifies CODELCO's corporate governing structure. The law removes the Ministers of Finance and Mining and a representative of the military from the board of directors. It also expands the board to nine members, three of whom are designated by the President of Chile, two of whom are nominated by CODELCO's labor unions and approved by the President of Chile, and four of whom are elected by the Consejo de Alta Dirección Pública (Chile's independent committee that makes high-level civil service appointments) and subsequently approved by the President of Chile.

SOEs are subject to the same taxes and the same value added tax rebate policies as their private sector competitors.

### *Sovereign Wealth Funds*

Chile has two **sovereign wealth funds** constituted principally from state **copper** revenues. The Economic and Social Stabilization Fund (FEES) was established in 2007 and was valued at USD 14.9 billion in November 2012. The Reserve Pension Fund was established in 2006 and was valued at USD 15.4 billion at the end of 2013. The stated purpose of this fund is to assist the Government with payments to those eligible to receive pensions but who remain indigent (Chile uses a privatized pension system). A third sovereign wealth fund, called the Bicentennial Fund, encourages Chileans to study abroad through the use of government funded scholarships.

The sovereign wealth funds are administered by the Chilean Central Bank, at the direction of the Ministry of Finance. The Ministry of Finance receives advice on policy related to the funds from an external Finance Committee made up of independent advisors. The Ministry of Finance publishes monthly, quarterly, and yearly reports on the funds.

## **11. Corporate Social Responsibility (CSR)**

The government encourages foreign and local enterprises to follow generally accepted CSR principles, including the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights.

There is general awareness of corporate social responsibility among both producers and consumers in Chile. As part of the OECD accession process, Chile passed a law in September 2009 setting out new rules to help bolster corporate social responsibility. Chile maintains and enforces domestic laws concerning labor and employment rights, consumer protections and environmental protections. Labor and environmental laws are not waived in order to attract or retain investments.

Independent NGOs in Chile promote and monitor CSR. Examples include NGO Acción RSE: <http://www.accionrse.cl/>, and the Catholic University of Valparaiso's Center for Corporate Social Responsibility.

## **12. Political Violence**

The incidence of terrorist activity and civil disturbance is generally low in Chile, and the violence that has occurred has had little impact on the Chilean economy. Crime rates are moderate throughout the country, and the vast majority of crimes are nonviolent. During the last 10 years there have been relatively few incidents of politically motivated attacks on investment projects or installations. In 2013, there were occasional incidents of vandalism of storefronts and public transport during student protests over education reform, some of which included violent incidents. Incidents of anti-American sentiment and civil disorder are rare, and there have been no attacks known to be attributable to international terrorist organizations.

Since 2007 Chile has experienced a number of small-scale bombings targeting mostly banks, but also a police station, a political memorial and the U.K. Embassy, the offices of a major newspaper and magazine publisher, and a prominent Catholic cathedral. Anarchist groups have claimed credit for some of the bombings.

There have also been violent incidents on farms and forestry plantations in south-central Chile, resulting in three deaths in 2012 and further damage to property and injuries in 2013. Many of these incidents are related to the land claims and other grievances of indigenous people (the Mapuche Native American group) in regions VIII (Bio-Bio) and IX (Araucania).

## **13. Corruption**

Corruption in Chile is limited. Since 2003, Chile has had laws in place that establish a more efficient and professional civil service through performance-based incentives and a reduction in political appointee positions in public service positions. In 2005, the GOC passed a law to regulate political party and candidate financing to further deter corrupt government practices.

Chile has signed and ratified the Organization of American States (OAS) Convention against Corruption, as well as the UN Anticorruption Convention. Chile is also a signatory to the OECD Convention on Combating Bribery, fulfilling the necessary accession processes, including

implementation of its Anti-Bribery Convention obligations. Chile is an active member of the Open Government Partnership (OGP).

In 2007, a new law came into force that provides protection for public employees who denounce irregularities or violations in accountability standards. At the same time, Chile ratified the United Nations Convention against Corruption. In 2009, Chile passed a transparency law obligating government offices to public information about expenditures, employee salaries, and other fiscal data. It also mandates that citizens be provided up-to-date information on how to access government services and request information. The law created an autonomous Transparency Council which is charged with implementing the requirements of the law. The administration of President Piñera (2010-2014) launched a campaign to educate citizens about their right to access public information and created Chile Atiende, an online and in-person platform to streamline access to common government services.

As noted previously, Chile ranked 22<sup>nd</sup> out of 177 countries in Transparency International's 2013 Corruption Perceptions Index (with 1 being the lowest perception of corruption).

U.S. firms have not identified corruption as an obstacle to FDI.

One resource to report or learn more about corruption issues in Chile is:

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#### **14. Bilateral Investment Agreements**

In 1991, Chile became a signatory of the Washington Convention of 1965, which created the International Center for Settlement of Investment Disputes (ICSID). Since then, Chile has negotiated numerous Bilateral Investment Treaties (BITs) through which Chile provides additional protection to foreign investment flows. According to information provided by the Government of Chile to ICSID, as of the end of 2013, Chile had signed 53 BITs, of which 40 are in force. There are agreements in force with Argentina, Australia, Austria, Belgium, Bolivia, China, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Germany, Greece, Guatemala, Honduras, Italy, Malaysia, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Spain, Sweden, Switzerland, Ukraine, the United Kingdom, Uruguay, and Venezuela. BITs signed but not in force include those with Brazil, Colombia, Egypt, Hungary, Iceland, Indonesia, Lebanon, Netherlands, New Zealand, South Africa, Tunisia, Turkey and Vietnam.

Chile has double taxation treaties in force with: Australia, Belgium, Brazil, Canada, Colombia, Croatia, Denmark, Ecuador, France, Ireland, Malaysia, Mexico, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Russia, South Korea, Spain, Sweden, Switzerland Thailand and the United Kingdom.

Chile and the United States have signed the U.S.-Chile Treaty to Avoid Double Taxation, which addresses certain tax-related obligations for U.S. companies operating in Chile. In May 2012 President Obama submitted the treaty to the U.S. Senate for ratification. In March 2014, the Government of Chile submitted the treaty to the Chilean Congress for ratification; at the time of publication of this report, neither the U.S. nor the Chilean Congress had ratified the treaty. Other double taxation treaties signed by Chile but not in force include those with Austria and South Africa.

### **15. OPIC and Other Investment Insurance Programs**

A Bilateral Investment Agreement between Chile and the United States, through the Overseas Private Investment Corporation (OPIC), took effect in 1984. Chile is a party to the convention of the World Bank's Multilateral Investment Guarantee Agency (MIGA).

### **16. Labor**

Unemployment in Chile stood at 5.7 percent at the end of 2013. The labor participation rate was 60.13 percent as of March 2014. The size of the total workforce increased by 1.6 percent in 2013 as compared to the prior year.

Chile has and generally enforces laws and regulations related to the internationally recognized labor rights of: freedom of association and collective bargaining; the elimination of forced labor; child labor, including the minimum age for work; discrimination in respect to employment and occupation; and acceptable conditions of work related to minimum wage, occupational safety and health, and hours of work.

Chile has enjoyed generally calm labor relations over the last decade, but strikes do occur. Strikes and public protests have been concentrated in the mining, health, education, transportation, and civil service sectors. Arbitration and mediation mechanisms exist to resolve labor-related disputes. Strikes are prohibited in certain “essential services” sectors prescribed by law.

Union membership is voluntary. According to the OECD, 15.3 percent of Chile’s workforce belonged to a trade union in 2012. Multiple unions exist in many companies, and management can negotiate collective agreements with any of the unions or with ad hoc groups of workers. Unions can form confederations or nationwide labor centrals and can affiliate with international labor federations. Contracts are normally negotiated at the company level. Multi-company bargaining is permitted on a voluntary basis. Overtime, paid annual vacations, and holidays are all established by law. Women are entitled to state-funded maternity leave for a period of six weeks before and six months after childbirth. Layoffs are not permitted between conception and one year after the female employee has returned from maternity leave.



Top executive salaries are on a par with European countries, although well below those in the United States. Chile allows companies to deduct set training costs (up to one percent of annual payroll) from corporate tax payments. A company can also use 10 percent of the rebate to finance an analysis of its training needs, and 15 percent to run a training department.

The maximum number of labor hours allowed per week in Chile is 45.

Subject to certain exceptions, Chilean nationals must comprise no less than 85 percent of the workforce of companies employing more than 25 persons.

A 2007 subcontracting law defines outsourcing as two different activities: subcontracting and the supply of outside labor. Subcontracting is when a company permanently outsources a specific process to another firm which takes full responsibility for it, carrying it out with its own employees. However, the law does not permit companies to outsource its main economic activity. Retention of outside labor falls within the ambit of subcontracting under the law only where it is "temporary" in nature, defined as stints of up to 90 (or in some cases 180) days during an "emergency." Additionally, only firms that register as suppliers of temporary labor and set up guarantees against their obligations to their own workers are allowed to fulfill this function. The law also sets limits on the number of staff that can be used on short-term jobs.

### **17. Foreign Trade Zones / Free Ports**

Chile has two tax-free zones: one in the northern port city of Iquique (Region I) and the other in the southern city of Punta Arenas (Region XII). Merchants and manufacturers in these zones are exempt from corporate tax, value added taxes (VAT), and customs duties. Businesses can re-export goods without paying taxes but must pay VAT (19 percent) and import duties when goods leave the zone to be used or sold in other regions of Chile. The same exemptions also apply to manufacturers in the Chacalluta and Las Americas Industrial Park in Arica (in the XV Arica and Parinacota Region). Mining, fishing and financial services are not eligible for free zone concessions. Management companies and firms established in the free zone are exempt from payment of tariffs, VAT, other charges on imports, first category income tax under the Income Tax Law, and payment of VAT on goods and services for all their operations in the free zone.

Foreign-owned firms have the same investment opportunities in these zones as Chilean firms.

### **18. Foreign Direct Investment Statistics**

Today more than 3,000 companies from over 60 countries have operations in Chile. Over the last decade, FDI has represented an annual average of over 6 percent of Chile's GDP. The most recent United Nations Conference on Trade and Development (UNCTAD) Global Investment Trends Monitor report in January 2014 placed Chile 18th in the world and second in Latin America for 2013 in terms of FDI inflows.

Between 2009 and 2012, the mining sector attracted 50.1 percent of implemented FDI under DL600, followed by services (26.6 percent); electricity, gas and water (10.9 percent);

manufacturing (7.9 percent); construction (2.4 percent); transportation and communications (1.7 percent); and agriculture and fishing (0.5 percent). Total implemented FDI through DL600 from 2009-2012 amounted to USD 81.5 billion.

According to its Central Bank, Chile recorded USD 7.36 billion in implemented FDI in 2013 through DL600, representing a 32 percent decrease from 2012. The top five recipient sectors of implemented FDI in 2013 through DL600 were: mining (USD 3.9 billion); insurance (USD 1.2 billion); food (USD 634 million); financial services (USD 627 million); and electricity, gas and water (USD 283 million).

**TABLE 2: Key Macroeconomic data, U.S. FDI in Chile**

	Chilean statistical source – Central Bank	USG or international statistical source	USG or international statistical source website
<b>Economic Data</b>	<b>Year / Amount</b>	<b>Year / Amount</b>	
Chile GDP	2012 / USD 225.1 billion	2012 / USD 269.9 billion	World Bank: <a href="http://data.worldbank.org/country/chile">http://data.worldbank.org/country/chile</a>
FDI to Chile	2012 / USD 28.2 billion	2012 / USD 27.1 billion	UNCTAD: <a href="http://unctad.org/en/PublicationsLibrary/webdiaeia2014d1_en.pdf">http://unctad.org/en/PublicationsLibrary/webdiaeia2014d1_en.pdf</a>
FDI to Chile from U.S.	2012 / *USD 2.95 billion	2012 / **USD 39.8 billion	U.S. Bureau of Economic Analysis: <a href="http://search.bea.gov/search?utf8=%E2%9C%93&amp;sc=0&amp;query=chile+fdi&amp;m=&amp;affiliate=u.s.bureauofeconomicanalysis">http://search.bea.gov/search?utf8=%E2%9C%93&amp;sc=0&amp;query=chile+fdi&amp;m=&amp;affiliate=u.s.bureauofeconomicanalysis</a>
FDI to U.S. from Chile	Data unavailable from Chilean sources	**2012 / USD 933 million	U.S. Bureau of Economic Analysis: <a href="http://search.bea.gov/search?utf8=%E2%9C%93&amp;sc=0&amp;query=chile+fdi&amp;m=&amp;affiliate=u.s.bureauofeconomicanalysis">http://search.bea.gov/search?utf8=%E2%9C%93&amp;sc=0&amp;query=chile+fdi&amp;m=&amp;affiliate=u.s.bureauofeconomicanalysis</a>
Total inbound FDI as % of Chile's GDP	2012 / 12.5 percent	2012 / 11.2 percent	World Bank: <a href="http://data.worldbank.org/indicator/BX.KLT.DIN.V.WD.GD.ZS">http://data.worldbank.org/indicator/BX.KLT.DIN.V.WD.GD.ZS</a>

Chilean Central Bank economic statistics are available online in Spanish only:

<http://www.bcentral.cl/estadisticas-economicas/>

\*Represents FDI coming through DL600 only; does not account for FDI under Chapter XIV of the Central Bank. Numbers are provisional.

\*\*Represents total *stock* in Chile/U.S., not inflows in 2012. Inflow statistics unavailable as of April 2014.

**TABLE 3: Sources and Destination of FDI for Chile in 2012**

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	182,719	100%	Total Outward	73,267	100%
Spain	32,263	18%	Argentina	13,411	18%
United States	29,728	16%	Brazil	12,773	17%
Canada	16,782	9%	Peru	9,453	13%
Bermuda	16,482	9%	United Arab Emirates	6,123	8%
Virgin Islands, British	14,676	8%	Spain	5,493	7%

"0" reflects amounts rounded to +/- USD 500,000.

Source: IMF, Coordinated Direct Investment Survey; <http://cdis.imf.org/>

**TABLE 4: Sources of Portfolio Investment for Chile in 2012**

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
World	125,001	100%	World	93,750	100%	World	31,251	100%
United States	51,340	41%	Luxembourg	41,875	45%	United States	13,903	44%
Luxembourg	44,095	35%	United States	37,437	40%	Germany	6,100	20%
Ireland	6,653	5%	Ireland	6,579	7%	Luxembourg	2,220	7%
Germany	6,190	5%	United Kingdom	2,204	2%	Japan	2,075	7%
United Kingdom	2,847	2%	Virgin Islands, British	2,033	2%	Brazil	1,018	3%

## 19. Contact Point at Post

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