CHILE

REVIEW OF THE INSURANCE SYSTEM

October 2011

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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FOREWORD

This review of Chile by the Working Party of Governmental Experts on Insurance is part of a series of reviews of national policies undertaken for the OECD Insurance and Private Pensions Committee (IPPC). It was prepared as part of the process of Chile's accession to OECD membership.

The OECD Council decided to open accession discussions with Chile on 16 May 2007 and an Accession Roadmap, setting out the terms, conditions and process for accession, was adopted on 30 November 2007. In the Roadmap, the Council requested a number of OECD Committees to provide it with a formal opinion. In light of the formal opinions received from OECD Committees and other relevant information, the OECD Council decided to invite Chile to become a Member of the Organisation on 15 December 2009. After completion of its internal procedures, Chile became an OECD Member on 7 May 2010.

The IPPC was requested to examine Chile's position with respect to core principles related to insurance and private pensions systems. The examinations were carried out by the Working Party of Governmental Experts on Insurance (WPGEI) and Working Party on Private Pensions (WPPP). The present report was finalised on the basis of information available in July 2009. It is released on the responsibility of the Secretary General of the OECD.

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This document has been prepared as part of the OECD's work in relation to Chile's application to OECD membership. In accordance with the Accession Roadmap adopted by the Council for Chile (C(2007)100/FINAL), which sets the terms, conditions and process for accession to OECD Membership. The Insurance and Private Pensions Committee (IPPC) has been asked to examine the ability and the willingness of Chile to assume the obligations of membership in the fields of insurance and private pensions. To assist the IPPC, the Working Party of Governmental Experts on Insurance (WPGEI) has examined Chile's position against the following core insurance principles:

- ensuring sound prudential regulation of insurance and reinsurance markets and protecting the rights of policy holders and beneficiaries, and
- relaxation of restrictions on cross-border trade, investment and establishment in insurance services as required under the OECD Codes of Liberalisation.

The Secretariat carried out a mission on 1-5 of March 2009, and received written submissions in response to the IPPC accession questionnaire and follow-up questions from the Secretariat [DAF/AS/ACS(2009)1/ADD2].

A first version of this document was used to support the first examination of Chile's position [DAF/AS/ACS(2009)1] on 1 April 2009. The conclusions of the WPGEI's deliberations on the first examination are summarised in the letter by the Chair to the Chilean authorities, which also contains requests for further improvements, and clarification and confirmation on a number of issues [DAF/AS/ACS/M(2009)1]. The Chilean authorities responded to the Chair's letter on 29 May 2009 [DAF/AS/ACS(2009)1/ADD3].

The second examination of Chile's position by the WPGEI was carried out on 8 July 2009 based on a revised report and Chile's response to the WPGEI's requests [DAF/AS/ACS(2009)1/ADD4]. This final report reflects the outcomes of the first and second examinations, and the responses provided during the first and second examinations.

It contains:

- an executive summary,
- a brief description of the Chilean insurance sector,
- an assessment of the regulatory, prudential and tax framework for insurance and reinsurance markets;
- an assessment of market access issues and the compliance of Chilean laws, regulations and policies against OECD Codes of Liberalisation, and,
- an assessment of the compliance on Chile laws, regulations and policies against other insurance-related OECD instruments.

It is meant to provide the basis for a discussion of the Chile insurance market, regulation and supervision to assist the WPGEI forming its views on the current state of the Chile insurance sector and to highlight those aspects of the system that could be strengthened or improved.

This report reflects the Investment Committee's review of Chile's proposed position against the OECD's Codes of Liberalisation on 16 December 2008 and 17 June 2009.[1]

The executive summary of this report contains an overview of Chile's insurance market, and insurance regulations and supervisory system. It also contains a overall assessment of Chile in the insurance field and identifies aspects that could be strengthened or improved.

[1] The Investment Committee's report on Chile is DAF/INV/ACS(2008)1/REV2.

EXECUTIVE SUMMARY

I. Overview of the insurance market

Chile's insurance sector has been steadily growing although the pace has been halting at times. The insurance sector is still small in terms of the overall financial system with assets at 18% of GDP compared to 51% of GDP for the pension fund sector. Penetration of Chile's insurance sector is 3.6% of GDP and density is 352.7 USD/capita.

While the growth in the insurance sector is mostly organic, that of the **life sector reflects the inflow of funds from those retiring and converting their pensions into annuities**. Chile has a mandatory, defined contribution pension scheme that requires workers to create individual saving accounts with pension funds that are converted into annuities at retirement. Insurance companies offer the annuity products. Insurance companies also offer voluntary pension saving products which have tax benefits.

Return on equity for life insurers has been relatively high compared to non-life insurance companies in the past few years due to life insurers' investment in longer term assets. The fall in interest rates has favoured assets with longer maturity resulting in higher profits of life insurers.

Chile has undergone some regulatory changes that have magnified market growth. The introduction of **new distribution channels via *bancassurance* and department stores** have resulted in an increase of gross premiums.

Other features of the Chile insurance market are:

- a **large presence of foreign-owned insurance companies;**
- **high efficiency and active product development** as a result of the majority market share held by foreign-controlled insurers; and
- an attractive market in which new **products related to pension systems can be piloted**.

Chile has taken some positive steps to address weaknesses of the regulatory regime and improve market standards. Many reforms, however, are work in progress and implementation issues remain.

Recent reforms include:

- **Capital Market Reforms I and II: measures designed to encourage competition** between banks, insurance companies and pension funds in their offering of voluntary pension fund savings (APV) was carried out, and **branches of foreign insurers were allowed**.
- **Pension system related changes**: insurance of pension funds has been better defined, **insurers can offer products with a voluntary retirement saving** element, and annuities are now being offered through a new, more transparent bidding system.
- **Risk-based supervision**: Chile is in the midst of introducing a risk-based supervisory system including changes in solvency requirements. **Changes in capital requirements, investment regulation and corporate governance of insurance companies** is expected with the passage of the bill currently being analysed by the Ministry of Finance.

The self-assessment of Chile against the Insurance Core Principles (ICPs) of the International Association of Insurance Supervisors (IAIS) carried out in 2004 suggested the need for improvement in the regulatory and supervisory regime. Some items that were not well complied at the time have since been addressed. Overall, most ICPs are thought to be partially observed, a result that stems in part from limitations in regulatory procedure and requirement. Some points that deserve particular attention are:

- Chile has a comprehensive procedure for the **winding-up and exit** of insurance companies which brings it into compliance with the related ICPs.
- **Group-wide supervision** is assessed as partially-observant, although some effort has been made to improve coordination between regulatory authorities.
- **Fraud** remains partially-observant, with no procedural guidelines to ensure the detection or report of fraud by insurers.

II. Implementation of the Roadmap principles

The following sections are the assessment of Chile's insurance system in terms of the two Roadmap principles related to insurance.

A. Prudential framework of the insurance market

Chile is in the process of implementing risk-based supervision, which will have an impact on the regulatory structure and approach, and affect the way solvency capital is calculated. This is an important step to upgrade the prudential framework of Chile in the field of insurance. However, implementation measures have not yet been adequately addressed. **Chile has committed to take action in the measures recommended in items i) and ii) below**.

i) Measures which need approval from the Congress:

- Chile has a comprehensive **bill on the solvency supervision of insurance companies** which addresses many of the concerns the WPGEI has in terms of corporate governance, namely:
    a. insurers are required to employ at least one actuary listed in the special registry of SVS;
    b. insurers are required to manage the level and portfolio of investments to ensure compliance with investment regulations in the law;
    c. the board of directors is responsible for defining the investment policy of the insurer in accordance with its risk levels; and
    d. insurers are to be classified according to their risk level, in which the SVS will have separate procedures and methodologies to evaluate each risk level in terms of the quality of risk management, internal control systems, corporate management's knowledge and experience, and compliance with principles or good practices related to corporate governance.

ii) Measures planned by Chile

- The appointment and dismissal of the superintendent of the SVS is carried out by the President of Chile. The government is planning to improve the legal framework of the SVS to enhance independence. The Ministry of Finance requested the SVS to submit a whitepaper drawing out its institutional reform which was submitted for public consultation at the end of 2008. The establishment of a commission of securities and insurance, independent of political intervention, would allow Chile to move forward with regulatory reform, and is being planned for when regulatory reforms taken globally responding to the financial crisis are clearer.
- While a large segment of the insurance sector is formed by conglomerates, Chile does not have a comprehensive measure for group-wide supervision. Chile has committed to carry out

an action plan that addresses the **development of group-wide supervision**. This is an important step to ensure that there is formal cooperation between the respective regulators, and risk is considered in a group-wide context.

iii) Recommendations for future actions

- The action that Chile is taking in relation to group-wide supervision mentioned above is an important initiative to formalise it. However, **Chile should consider further action, including legislative change, to solidify the method used and measures taken in group-wide supervision**.
- Chile should proceed with **issuing good practices or guidelines on risk management and corporate governance** to ensure that measures are available prior to legislative changes taking force.
- Chile should consider encouraging the Mathematical Actuarial Institute to develop guidelines, standards, and training to **promote the actuarial profession**. This would complement the bill that requires the employment of an actuary and develop a career path of actuaries as well.

B. Market access and Codes of Liberalisation

Foreign insurers can establish a presence in the insurance market of Chile through a subsidiary or a branch. A subsidiary is treated as a domestic entity and can engage in all activities permitted by its license. Branches are permitted as a result of recent reforms, but have hitherto not been established in Chile. Branches must follow the same financial requirements as local insurers although they are permitted to forego the establishment of a board for the branch. SVS has now established regulations for the licensing and operation of foreign branches.

Cross-border insurance transactions are permitted, but only if initiated by the policyholder in Chile. Cross-border service providers cannot engage in compulsory insurance or insurance contracts related to the mandatory pension system. However, foreign insurance entities established in a country that has an international agreement with Chile are allowed to sell insurance for international maritime transportation, international commercial aviation and merchandise in international transit from that country. Promotional activities by non-resident service providers are not permitted.

As for the Codes of Liberalisation, Chile will have reservations in items D/2-D/4, D/7, and D/8. The reservations, in principle, reflect the prohibition of promotion activities by non-resident cross-border service providers, and provision of compulsory insurance and contracts related to the mandatory pension scheme. Further, Chile has certain international commitments that limit its ability to accept insurance on international road and railway by cross-border transactions. Branches of private pension funds are not permitted in Chile, and tax cannot be deducted from contributions to non-residents' pension funds.

III. Position of Chile vis-à-vis OECD Legal Instruments

In its Initial Memorandum, Chile accepted all OECD instruments related to insurance, in some cases proposing a timeframe for full compliance. Implementation guidelines are still being developed to make it fully compliant.

Recommendation of the Council on Guidelines for Insurers' Governance

Supervisory guidelines on corporate governance need to be developed, particularly with respect to internal controls and fit-and-proper requirements for senior managers of an insurer. Corporate governance is an area which Chile should improve its prudential requirements, and is addressed in more detail in section II.A.i) above.

- Chile's corporate governance should be improved by developing guidelines on internal controls and fit-and-proper rules for senior management.

Recommendation of the Council on Assessment of Reinsurance Companies

Chile does not have a comprehensive framework that requires insurance companies to assess the adequacy of reinsurers. Guidelines and rules are expected to be issued to establish a framework.

- Chile should issue guidelines to establish a comprehensive framework requiring insurers to assess the adequacy of reinsurers.

Recommendation of the Council on Good Practices for Enhanced Risk Awareness and Education in Insurance Issues

The financial education programs that have so far been rolled out in regards to insurance have been geared to raise awareness towards the need of compulsory insurance coverage, and not necessarily on the riskiness or benefits of insurance products. It might be useful for SVS to consider risk awareness and education in its general policy framework with specific programmes in mind. Creating a comprehensive and coordinated programme will benefit society at large.

- Chile should consider a comprehensive and coordinated program on financial education in insurance.

Recommendation of the Council on the Establishment of a Check-list of Criteria to Define Terrorism for the Purpose of Compensation

Chile does not have a formally-established definition or general framework on compensation for terrorism, either at the level of private insurance or government programmes.

- Chile should consider formally establishing a general framework on compensation for terrorism.

Recommendation of the Council on Good Practices for Insurance Claim Management

While Chile complies with the overall framework of the Recommendation, some specific aspects could be addressed. The supervisory authority could play a greater role in improving the claim management procedure.

- The supervisory system should play a larger role in **promoting better claims management**.
- Fraud prevention is not well addressed and could be improved by its inclusion in the supervisory framework.

Recommendation of the Council concerning a Common Classification of the Classes of Insurance Recognised by the Supervisory Authorities of the Member Countries

The classification in the Recommendation is deemed to be too extensive for Chile's insurance market. However, Chile follows the gist of the Recommendation, which is to ensure that insurance companies are licensed by class and only permitted to carry out operations in areas for which they are expressly authorised. Where the classification does not currently exist in Chile, Chile plans to introduce new classifications when necessary in accordance to the Recommendation.

Recommendation of the Council concerning Institutional Co-Operation between Authorities of Member Countries Responsible for Supervision of Private Insurance

The SVS is obliged to provide assistance in the form of information related to the investigation of infractions of securities and insurance legislation as requested by a foreign regulatory and supervisory body or international organisations. Chile currently has exchanged MOUs with five insurance supervisors, and would benefit from greater exchanges of MOUs with other insurance supervisors.

IV. Conclusions

The WPGEI recommends to the IPPC that Chile’s position in insurance is satisfactory; but additional steps should be taken, and Chile could be invited to make a progress report in 2-3 years after accession.

1. THE CHILE INSURANCE MARKET: MAIN FEATURES

1.1. Market structure: relatively open market with high foreign participation

Market size of insurance sector

Chile's insurance market has been steadily growing although the pace has been halting at times. The insurance sector is still small in terms of the overall financial system with assets at 18% of GDP compared to 136% and 51% of GDP for the banking and pension fund sectors respectively. It has a market share of 0.13% of the OECD members' insurance markets. In terms of penetration, Chile's insurance sector is currently 3.57% of GDP which indicates that taking into account the size of the economy the insurance sector is relatively well developed.

Table 1. Financial System of Chile

	Assets (Nov 2008, billion USD)	% of GDP
Insurance companies	29.1 (December 2008)	18
Banks	178	136
Pension funds	74.3	51
Mutual funds	17.2	13

NB. For all statistics in USD, the volatility of the foreign exchange rate and inflation contributes to many of the large fluctuations.

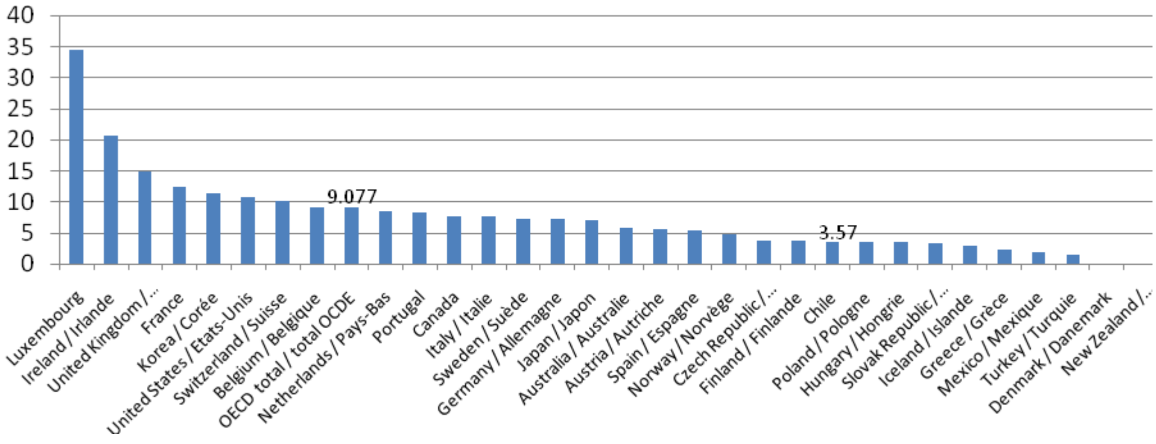
Source: SVS and Central Bank of Chile

Table 2. Penetration of the insurance sector (% of GDP)

Year	Non-life	Life	Total Insurance Market
2003	1.24	2.71	3.95
2004	1.18	2.53	3.71
2005	1.15	2.36	3.51
2006	1.07	2.17	3.24
2007	1.19	2.38	3.57

Source: SVS

Figure 1. Penetration of insurance OECD members, 2006



Source: OECD and SVS

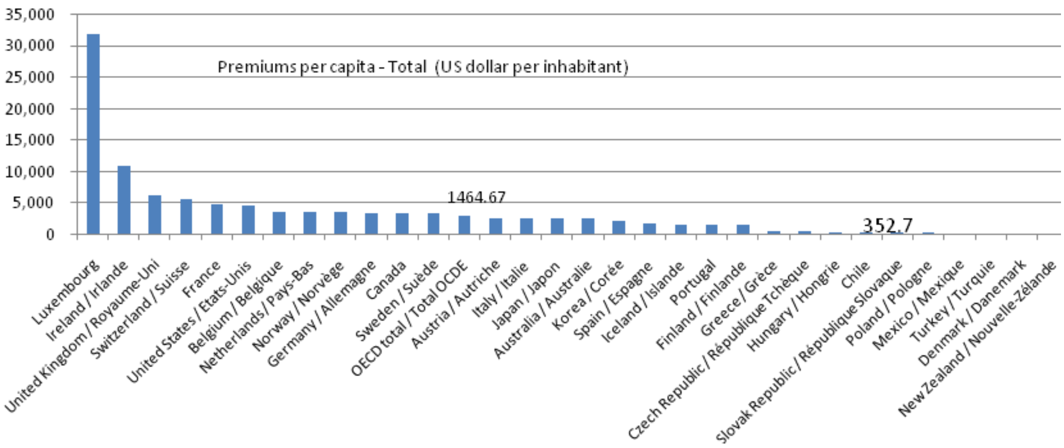
Table 3. Gross Premiums (million USD, December each year)

	Non life Insurance	Life Insurance	Total Market
1997	825	1.841	2.666
1998	759	1.712	2.471
1999	680	1.871	2.551
2000	716	2.136	2.852
2001	765	2.044	2.809
2002	905	1.781	2.686
2003	939	2.005	2.944
2004	1.128	2.570	3.698
2005	1.360	2.790	4.151
2006	1.564	3.177	4.741
2007	1.951	3.904	5.855

Source: SVS

Growth has been notable in gross premiums. Premiums in both life and non-life have grown twofold in nominal terms over the last five years. The insurance market is expected to grow further as density is at the lower end of OECD member states at 352.7 USD/capita and the market has been growing in tandem with the overall economy.

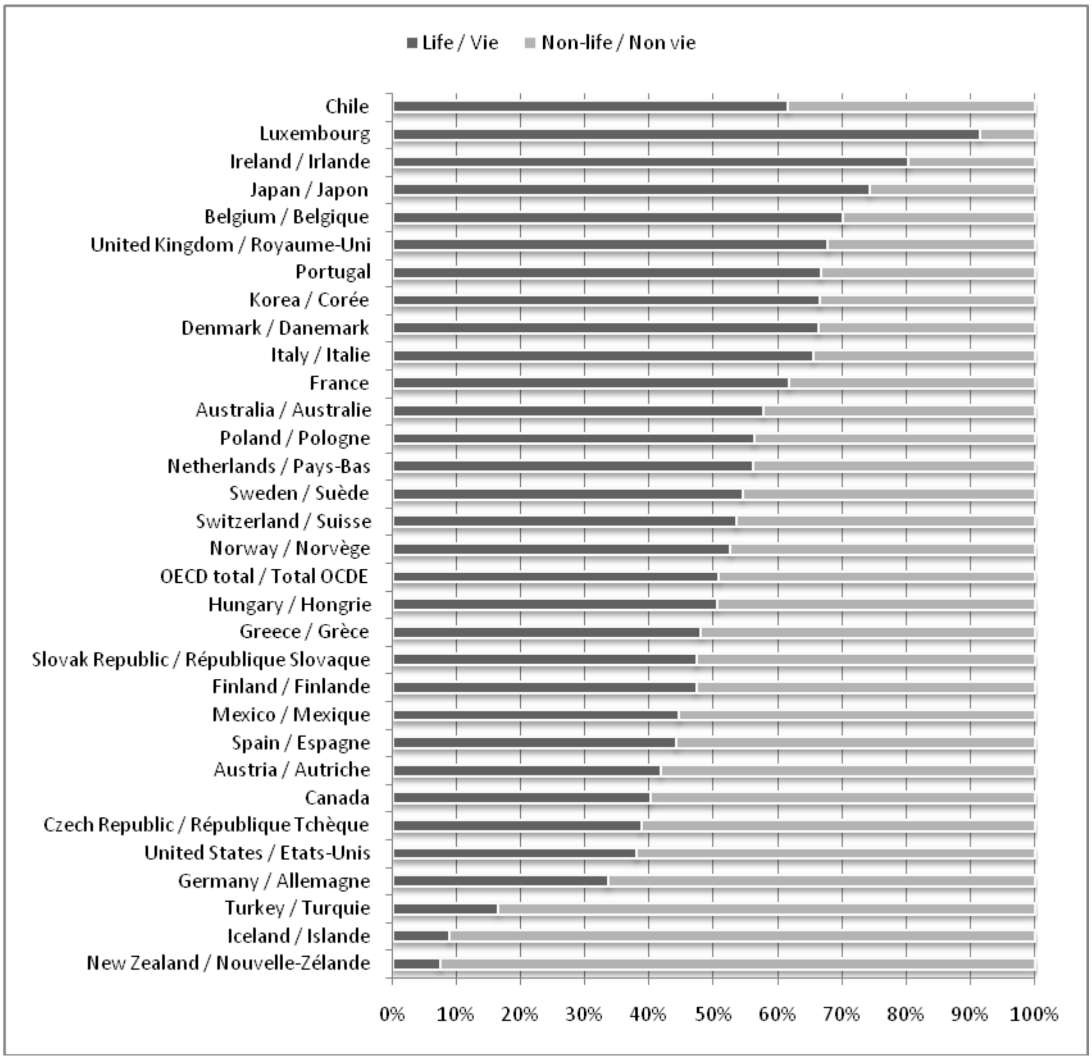
Figure 2. Density of insurance of OECD members, 2006



Source: OECD and SVS

One of the notable features of Chile's insurance sector is that despite the relatively moderate size of the insurance market, the life sector is 61% of the insurance market. Of the OECD member states, those with a life sector greater than 60% of the insurance market have a relatively large insurance market.

Figure 3. Life and non-life insurance of OECD members, 2006



Source: OECD and SVS

While the growth in the insurance sector is mostly organic, that of the life sector reflects the inflow of funds from those retiring and converting their pensions into annuities. Chile has a mandatory, defined contribution pension scheme that requires workers to create individual savings accounts with pension funds that subsequently are converted into annuities at retirement. Pension funds, which are a large part of the financial system, will therefore eventually be converted into annuities, spurring the growth of the life sector further. This factor alone demonstrates the likelihood of the insurance sector becoming a greater part of the financial sector. The growth will need to be monitored carefully so that insurance companies are able to cover the long-term risks of annuities and that the annuity products offered compliment the needs of consumers.

Chile has undergone some regulatory changes that have resulted in the growth of the market. The introduction of new distribution channels via *bancassurance* and department stores have resulted in an increase of gross premiums. Chile is seeking to implement risk-based supervision, which will have an impact on regulatory structure and approach, and affect the way solvency capital is calculated. This may impact negatively on the insurance companies' balance sheet. The changes in the social security framework will also bring unique challenges to the insurance sector, which will have to cater to new needs. The insurance companies are a major player in the social security provision network, and their regulation and structure need to be carefully balanced with the social element they play.[2]

In principle, insurance companies are classified as non-life insurance companies (first group) and life insurance companies (second group), and they are only allowed to operate in the group for which they are licensed. Only non-life insurers that are dedicated to credit insurance can insure credit risk as well as surety and fidelity. However, risks of personal and health accidents can be covered by both life and non-life insurance companies.

The insurance market is dominated by foreign insurers in both life and non-life markets. Another distinct feature of the insurance sector compared to other financial sectors is that while other financial sectors are held overwhelmingly by financial or corporate conglomerates (over 90%), the insurance sector is the only financial sector in which a moderate 40% of the market is held by conglomerates. The insurance sector has a large segment of stand-alone insurers that are specialised in insurance and are not owned by a holding company. Financial institutions are not permitted to directly cross-own each other, but are able to form financial or corporate conglomerates through a general holding company. While life and non-life companies need to be individually licensed and a separate corporation established, if they belong to the same group, the same management and administrative system may be used in Chile.

Financial condition of insurance markets

While penetration of the insurance sector is less prominent (Chile is 3.57% while the OECD average is 9.077%), the growth in gross premiums is positive. The life sector has been growing with the increase in annuities and introduction of new social security related products. General life has been growing with the economic activity of the country. In terms of profitability and financial condition of insurance companies, return on equity for life insurers has been relatively high compared to non-life insurance companies in the past few years due to life insurers' investment in longer term assets. The fall in interest rates has favoured assets with longer maturity resulting in greater profits of life insurers. There has been analysis by the IMF suggesting that the life sector's profitability has been dampened as a result of its large segment of annuities business in which investments are regulated.[3] Annuities by nature carry a strong guarantee exposing insurance companies to long-term commitments on returns and associated longevity risk. The market for non-life insurance is relatively limited and does not have the benefit of economies of scale that the life sector has.

Expenses of non-life insurers is high at 40% of premiums due to higher commission paid to intermediaries and distribution agreements exchanged for diverse channels with banks and department stores. Further, administrative costs of motor insurance is high in Chile.

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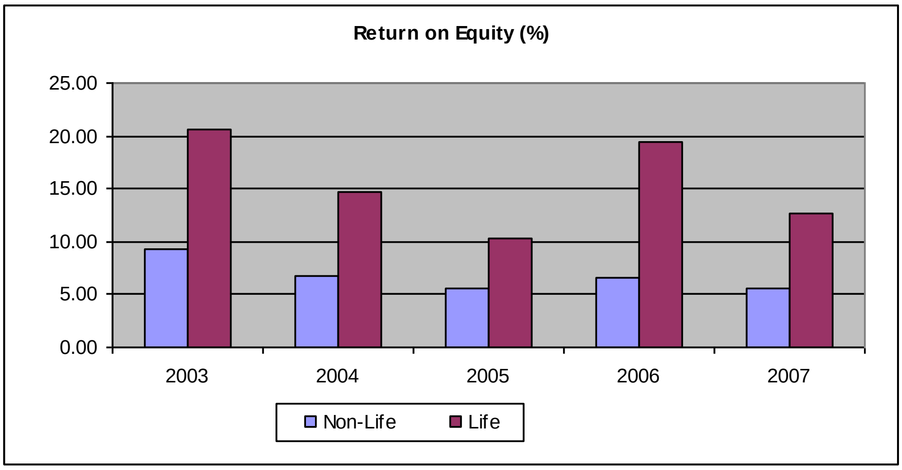
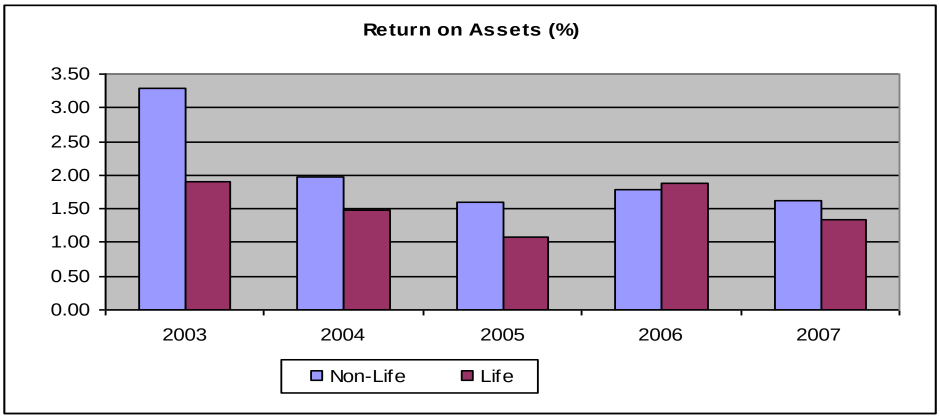
[2] See section 1.3. Institutional aspects of the insurance market for details on the role of insurance in the pension system.

[3] International Monetary Fund and World Bank, "Financial Sector Assessment Program Chile: The Insurance Sector A Risk Focused Case for Enhanced Regulation and Supervision" (June 2004), at pp. 11-15.

Figure 4. Return on Equity and Return on Assets of insurance companies



Source: SVS



Source: SVS

When assessing the level of available capital and solvency capital, most firms have a significantly high level of capital reserve, with some firms having an especially high level. Chilean insurance companies have a very conservative approach to solvency, and they tend to accumulate more capital than required. This approach by the majority of insurance companies is due to the social role that many insurers play in the social security framework,[4] and the strict regulatory regime which is adopted as a result of this.

[4] See section 1.3. Institutional aspects of the insurance market 1.2. Growth of the insurance market for details on the role of insurance in the pension system.

Table 4. Capital of insurance companies: solvency and available capital
(at December 31, 2007, million USD)

NON LIFE INSURANCE COMPANIES

		REGULATORY CAPITAL	AVAILABLE CAPITAL	AVAILABLE CAPITAL/ REGULATORY CAPITAL
1	Ace	9,68	18,34	1,89
2	Aseguradora de Magallanes	21,54	31,38	1,46
3	Bci	24,77	41,41	1,67
4	Cardif	63,03	66,79	1,06
5	Chilena Consolidada	28,47	45,68	1,60
6	Chubb	3,56	11,16	3,13
7	Coface	3,56	7,63	2,14
8	Consorcio Nacional	5,78	10,72	1,85
9	Crédito Continental	3,56	20,94	5,88
10	Huelen	3,56	4,84	1,36
11	Interamericana	27,84	43,01	1,54
12	Ise Chile	7,44	12,08	1,62
13	Liberty	27,05	37,86	1,40
14	Mapfre	20,72	23,32	1,13
15	Mapfre Garantías y Créditos	3,56	10,50	2,95
16	Mutualidad de Carabineros	3,56	16,37	4,60
17	Penta Security	25,60	38,20	1,49
18	Renta Nacional	5,11	8,13	1,59
19	Royal & Sun	48,02	74,20	1,55
20	Santander	8,15	18,64	2,29
	TOTAL NON LIFE INSURANCE	345	541	1,57

Source: SVS

Table 5. Life Insurance Companies
(at December 31, 2007, million USD)

LIFE INSURANCE COMPANIES

		REGULATORY CAPITAL	AVAILABLE CAPITAL	AVAILABLE CAPITAL/ REGULATORY CAPITAL
1	Ace	3,56	4,10	1,15
2	Banchile	12,05	25,84	2,15
3	BBVA	18,89	40,99	2,17
4	Bci	17,20	24,73	1,44
5	Bice	175,42	357,98	2,04
6	Cardif	27,31	34,53	1,26
7	Chilena Consolidada	87,08	171,68	1,97
8	CLC	3,56	3,72	1,04
9	CN Life	33,07	109,82	3,32
10	Consorcio Nacional	277,43	598,66	2,16
11	CorpVida	110,09	237,49	2,16
12	Cruz del Sur	42,24	128,18	3,03
13	Euroamérica	48,47	80,17	1,65
14	Huelén	3,56	5,78	1,62
15	ING	207,33	408,92	1,97
16	Interamericana	35,36	85,11	2,41
17	Mapfre	3,69	5,20	1,41
18	Met Life	170,59	249,14	1,46
19	Ohio National	41,86	64,18	1,53
20	Penta	82,42	148,93	1,81
21	Principal	149,27	200,38	1,34
22	Renta Nacional	30,70	73,52	2,39
23	Santander	28,45	143,28	5,04
24	Security Previsión	85,25	147,82	1,73
	TOTAL LIFE INSURANCE	1.695	3.350	1,98

Source: SVS

1.2. Growth of the insurance market

In the life sector, life insurance and health insurance have grown significantly in the past decade. The life sector has generally had a stronger growth path compared to the non-life sectors, but fire and earthquake coverage have also witnessed high growth within the non-life lines. Insurance on pension funds (AFP insurance) is another area in which much business has been generated.[5] The requirement that pension funds (AFPs) seek insurance through a bidding system has resulted in this increase.

In the case of life insurance, the growth in premiums is partially explained by the incorporation of new distribution channels, especially *bancassurance*, and new insurance products which has broadened the life insurance market to a larger pool of people.[6] The increase in health insurance and insurance covering mortgage payments in case of death/disability stands out, the latter being highly correlated to growth in the housing sector.

Life annuity policies have increased as the number of the retirees under the new pension system increase. The development of voluntary social security savings (AVP), for which insurance companies can also offer products, has further led to a growth in the premiums of insurance companies.

Table 6. Gross premiums of life insurance (trillion UFs)

Year	Life insurance (**)	Health	AFP insurance	Life annuities	Total
1998	12,5	2,6	4,1	34,5	53,6
1999	14,8	2,5	4,7	41,2	63,2
2000	17,2	2,6	5,0	48,3	73,1
2001	18,6	3,2	5,8	52,3	79,8
2002	21,0	3,3	5,6	43,4	73,3
2003	24,3	3,8	7,2	46,6	81,9
2004	29,4	4,3	7,4	49,3	90,5
2005	32,9	5,0	6,9	42,1	86,9
2006	37,5	5,6	9,8	38,9	91,9
2007	41,1	6,0	9,5	45,8	102,4

In Unidad de Fomento (UF) which is an inflation-indexed denomination.
1 UF = USD 600 (13 March 2009 date)
(*) Incluye transporte terrestre, marítimo y aéreo.
(*) Freight, charter and cargo are included.

Source: SVS

The growth of non-life insurance is tied to the growth of economic activity. The demand for automobiles has resulted in an increase in vehicle insurance. The design of new products has sparked growth in other insurance categories, such as payment protection, which protects the policyholder in the face of debt obligations should they become unemployed. The introduction of new retail distribution channels that enable simple insurance products to be offered through varied outlets has led to growth as well.

As a consequence of the September 11 terrorist attacks in the US, as well as natural disasters such as hurricanes, there has been a rise in the cost of reinsurance, which has been reflected in the premiums and may also have contributed to higher gross premiums. Earthquake insurance has always

[5] See section 1.2. Growth of the insurance market for details on the role of insurance in the pension system.

[6] For details of *bancassurance* in Chile, see section 1.3.2. Distribution channel for insurance products.

been a large segment of the market as the geological situation of Chile makes it prone to periodic, large earthquakes.

Table 7. Gross Premiums of non-life insurance (trillion UFs)

Year	Fire and earthquake	Motor vehicle	Transportation (*)	Ship Hull and Aircraft	Personal Accident	Other	Total
1998	6,1	9,5	1,6	0,8	0.9	4,9	23,8
1999	6,6	8,6	1,4	0,7	0.8	4,8	22,9
2000	7,5	8,0	1,4	0,9	1,0	5,7	24,5
2001	10,2	8,2	1,5	1,8	0.9	7,1	29,8
2002	14,7	8,3	1,8	1,8	0,8	9,7	37,2
2003	14,2	8,9	1,7	1,6	0,7	11,2	38,4
2004	13,3	9,5	1,7	1,3	1,7	12,0	39,7
2005	13,2	10,8	1,9	1,2	1,6	13,7	42,4
2006	13,7	11,6	2,1	1,1	1,6	15,1	45,2
2007	15,1	13,4	2,2	1,1	1,7	18,3	51,9

In Unidad de Fomento (UF) which is an inflation-indexed denomination.
1 UF = USD 600 (13 March 2009 date)
(*) Incluye transporte terrestre, marítimo y aéreo.
(*) Freight, charter and cargo are included.
Source: SVS

1.3. Institutional aspects of the insurance market

Market concentration and players

Insurance in Chile is generally considered to be diverse and open with several foreign insurers operating in the market. The Herfindahl Index for life and non-life are both below 1000, indicating that the insurance market consolidation is not moderately concentrated, as according to the Department of Justice classification of the US. For both life and non-life, the market share is well diversified and, significantly, the largest market players are foreign insurers for both sectors.

Table 8. Herfindahl Index

Herfindahl Index

	Non-Life Insurance	Life Insurance
1998	758	614
1999	827	648
2000	789	619
2001	812	703
2002	864	624
2003	879	658
2004	961	649
2005	902	723
2006	995	737
2007	916	712

Source: SVS

The concentration of the insurance market is relatively low compared to other sectors of the Chilean economy. The number of non-life insurance companies has not significantly changed over the past decade, while the number of life companies has fluctuated somewhat.

Table 9. Number of insurance companies

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Non Life	23	23	23	25	25	23	23	22	23	23	22	22	21	21
Life	28	29	29	34	33	32	33	32	32	30	30	29	30	28
Total	**51**	**52**	**52**	**59**	**58**	**55**	**56**	**54**	**55**	**53**	**52**	**51**	**51**	**49**

Source: SVS

Most of the large players are either a subsidiary of an international operation or part of a conglomerate. Those that belong to a conglomerate are part of a financial conglomerate as opposed to a corporate conglomerate. ING- and Zurich-owned insurers are the market leaders for life and non-life insurance respectively. In the list of top 10 insurers (see Tables 10 and 11), the market shares for the market leaders are provided and indicate that the market is well diversified. The market is very competitive in all segments of the market, with foreign insurers bringing important elements of efficiency to the market.

The presence of financial conglomerates is prevalent in Latin America and for all other financial sectors in Chile as well. More than 90% of the banking, securities, and pensions are part of a financial conglomerate while 40% of the insurance market forms part of a financial conglomerate. In relative terms, the insurance sector is less exposed to financial conglomerates.

There are clear procedures for establishing an insurance company and while banks are not permitted to directly own an insurance company, conglomeration can be established between insurance companies, banks, securities firms, and investment funds through a holding company. While regulatory requirements impose separation of financial institutions, there are firewalls between related institutions to limit the exchange of client information unless expressly authorised by the client. As market practice, banks require the borrower of loans and mortgages to take out credit and mortgage insurance respectively. This is usually taken out with the insurance company related to the bank. Insurance is often offered as part of another financial service from the related financial institution. Insurance companies are not permitted to establish as a mutual, and listing on the exchange does not change any aspect of regulation.

Table 10. List of top 10 insurance life companies

Life Companies	Gross Premiums Jan-Dec 2007 (Million US$)	Market share (%)	Ownership
Ing	584.9	14,22	Private, international
Metlife	445.5	10,83	Private, international
Consorcio Nacional	409.6	9,96	Part of a conglomerate, national
Principal	280.2	6,81	Private, international
Bice	247.5	6,02	Part of a conglomerate,
Chilena Consolidada	244.8	5,95	Private, international (Zurich group)
Penta	206.7	5,02	Part of a conglomerate,
Euroamerica	201.5	4,90	Part of a conglomerate
Corpvida	201.3	4,89	Part of a conglomerate, national
BBVA	185.4	4,51	Private, international

Data in million US dollars to December 2007

Source: SVS

Table 11. List of top 10 insurance non life companies

Non Life Companies	Gross Premiums Jan-Dec 2007 (US$)	Market share (%)	Ownership
Chilena Consolidada	238.6	11,60	Public, international (Zurich group)
Penta-Security	214.8	10,45	Part of a conglomerate, national
Interamericana	207,0	10,07	Private, international
Mapfre	167.2	8,13	Private, international
Cardif	158.9	7,73	Private, international
Liberty	152.5	7,42	Private, international
Aseg. Magallanes	145.6	7,08	Public, national
Bci	145.4	7,07	Part of a conglomerate, national
Ace	85.6	4,17	Private, international

Data in million US dollars to December 2007

Source: SVS

Foreign penetration in Chile

The more significant aspect of the insurance industry is perhaps the large market share that foreign insurers hold. For both life and non-life insurance companies, the majority of the market is held by foreign-owned insurers. Most of the foreign life insurers operate in the annuities business. The Chilean market has been especially attractive to such foreign insurers as they provide an opportunity to offer pension-related products. The non-life foreign insurers are more diverse in the business lines in which they specialise.

In December 2007, of the 28 life insurance companies, 11 were controlled by foreign corporations. This compromises 60% of written premiums being provided by foreign insurers. 11 of the 21 non-life insurers were foreign-owned, which represented 70% of gross premiums. The large market share that foreign insurers hold have encouraged domestic insurers to become efficient and cost effective, improving the competitive environment of the insurance market.

As a result of recent capital market reforms, Chile now allows foreign insurers to operate through branches. Previously foreign insurance companies could only operate through a local subsidiary. However, no foreign insurer has so far applied for a branch operation. Foreign branches are required to have the same financial and prudential requirements as foreign subsidiaries and local insurers except for not needing a board of directors in Chile.

Cross-border transactions for compulsory insurance, AFP insurance, the disability and survival insurance for AFPs, and annuities purchased using retirement pension funds are not permitted. However, all life insurance companies established in Chile, including those of foreign origin, can offer these products.

Role of insurers in the pension system

In 1980, the Chile government introduced a systemic reform that replaced the old pension schemes (except for the armed forces pension systems, which were left unchanged in the reform). The new pension system was established on a defined contribution basis with individual savings accounts managed by private firms called the Pension Fund Administrators or AFPs.

The pension system requires AFPs to insure against situations in which a member becomes disabled or dies, and needs to purchase an annuity but does not have sufficient accumulation of funds in his/her individual retirement savings. This AFP insurance covers the shortfall in individual retirement savings at the point of disability or death to enable the purchase of an annuity. AFP insurance can be provided by life insurers and accounts for a large and increasing amount of premiums.

Insurers also play a role in the pension system as a provider of annuities. When a member of the AFP reaches retirement, they have the option of remaining with the AFP and receiving benefits by withdrawal of funds that have been accumulated, or transferring the savings to an insurance company to purchase an annuity. Annuities are a life-long commitment to the member and form a key part in the pension system. Annuity policies have a social element which adds a special character to its provision and investments. Longevity and investment risks are significant. In Chile, there have been AFPs that have lost significant portions of their investments and remaining with the AFP at time of retirement may not provide sufficient retirement payouts. But these large losses by AFPs demonstrate the significant role that the pension system plays in the financial system.

Insurance companies are involved in the voluntary social security savings (APV) component of the pension system. Members can open an APV account with banks, life insurance companies, mutual funds or AFPs. There are tax benefits for members of APVs, which are intended to stimulate voluntary saving for social security purposes.

In the pension system, annuities are offered through an integrated electronic bidding system which provides members who have reached retirement age and opt to purchase an annuity with a ranking of annuities containing information on price and risk rating. (The Chilean pension system does not allow a lump-sum withdrawal at any juncture of the system.) The bidding system is designed to promote fairness and transparency in the purchase of an annuity. Commissions were previously freely set, enabling life insurers to charge a large amount of commission of which part would be paid back to the annuity recipient, distorting competition in the market and circumventing restrictions on the payment of a lump-sum to plan members via insurance intermediaries.

Until 2008, AFPs usually took out AFP insurance with an insurer that was a company related to the AFP. Premiums for AFP insurance were paid by the AFPs. However, the new changes require that each member take out AFP insurance with several insurance companies through an auction system so that the risk is shared among more than two insurers. To facilitate the claim payment for AFP insurance, which will be paid by several insurers, the Chilean Insurance Association will process the payout to create a single window for claimants.

When insurance companies participate in AFP insurance, insurers are required to have a higher capital requirement. The stricter prudential regime is to ensure the safety of providers of pension-related products.

Previous to 2004, insurers that were providing annuities could not reduce their technical reserves if they ceded the risk to reinsurers abroad. In 2004, the requirement was relaxed to permit life insurers to reduce 40% or more of their technical reserves for the risk of annuities reinsured abroad. To reduce technical reserves further in respect of the annuity obligations, certain requirements issued by the SVS need to be met.

Insurance association

The sole insurance association in Chile, the Chilean Insurance Association, was founded in 1899 to develop the insurance business in the country and to create an entity that would represent the sector's opinion. Members of the Chilean Insurance Association currently gather more than 99% of insurance premiums in Chile, and 43 out of the 52 insurance and reinsurance companies operating in Chile are members.

The Insurance Association is in the midst of increasing its number of staff to respond to AFP insurance being shared between more than two insurers. The Insurance Association will coordinate the payment of claims to AFP insurance so that members will only have to interface with one entity instead of the multiple insurers that share the risk.

The Insurance Association has created the Self Regulatory Council for the insurance companies with the objective of monitoring the full application of the Good Corporate Practices Guide. The Insurance Association is, in effect, operating as a self regulatory body of the insurance sector.

1.3.1. Reinsurance

Reinsurance can be carried out by domestic reinsurers, domestic insurers where they are authorized to reinsure, and foreign reinsurers that have at least an investment-grade (BBB) international risk rating. Currently, there are no domestic reinsurers operating in Chile and most reinsurance is transacted cross-border. While non-life insurers that underwrite large risks, especially related to corporate clients' property insurance, have been actively using reinsurance from foreign reinsurers, life insurers have been less active in reinsuring. This is due to the lack of deduction that reinsurance brings to technical reserves for annuities business.

Table 12. Retention of business written (%)

Year	Non-life	Life
2003	45,25	97,51
2004	50,40	97,18
2005	55,31	97,12
2006	55,93	97,19
2007	56,84	97,55

Source: SVS

1.3.2. Distribution channel for insurance products

Insurance policies may be taken out directly with an insurance company, through its selling agents, or through independent insurance brokers. While selling agents are affiliated with a single insurance company, insurance brokers are independent from insurers. Distribution through *bancassurance* has grown significantly and has come to represent a large portion of life contracts distributed. Department stores also present a unique and significant distribution channel for insurers.

Table 13. Alternative Distribution Channels

Type of intermediary	Group	Gross Premiums (Million USD)
Brokers Natural Person	Non Life	43.6
	Life	207.9
Brokers Companies	Non Life	229.6
	Life	91.9
Brokers Branch Banking	Non Life	97.5
	Life	176.8
Department Stores	Non Life	58,0
	Life	38.1
Total		943.5

Data as of December 2007

Source: SVS

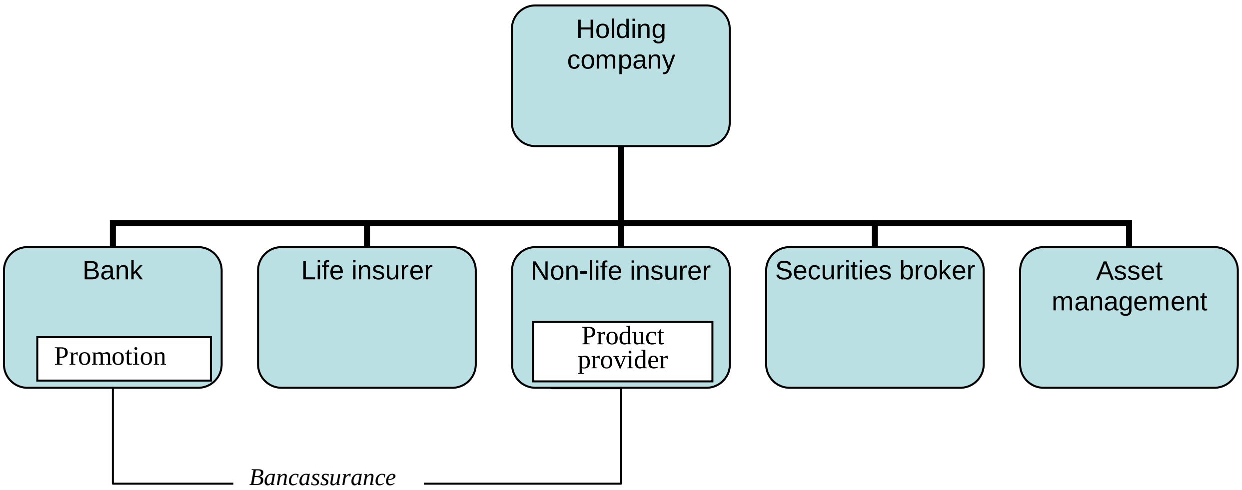
Insurance intermediaries are required to fulfil the following requirements to operate:

- Certification of minimum knowledge of insurance in accordance with the procedures and schedules of the SVS which can be verified by a certificate attending the Insurance Program or passing an examination on technical knowledge of insurance.
- Collateral that is more than 500UF (USD18,400) or 30% of premiums intermediated in the previous year, and no more than 60,000UF (USD2.2 million). This is lowered for annuities related business.
- Corporate bodies need to be legally incorporated in Chile, with indemnity insurance.

Insurance intermediaries are not subject to anti-money laundering regulations.

In Chile there are two forms of *bancassurance*: insurance companies distributing through a bank of insurance broker in the same financial group, or companies that have distribution agreements with one or more banks or department stores.

Figure 5. Common method of providing *bancassurance* in Chile



Source: OECD Secretariat

The growth of the economy has expanded the market of insurance in death, unemployment, fire, and automobile as these contracts can be standardized and mass distributed at low cost. In addition to sales, the number of policy holders has increased as a result of *bancassurance*.

Retail channels, such as *bancassurances* and department stores, have been instrumental in providing more simple insurance products, while complex products continue to be sold mainly through brokers who have the training and qualification to offer such products. These alternative distribution channels are subject to the same requirements and obligations that exist for other channels such as the obligation of adequate assistance, which requires all persons involved in intermediation of insurance contracts to be accredited by the SVS.

Table 14. Premiums Life Companies (Million US$)

	2005	2006	2007
Bancassurance	0,5	0,6	0,8
TOTAL PREMIUMS	2,1	3,2	3,9
Total of premiums	23%	20%	20%

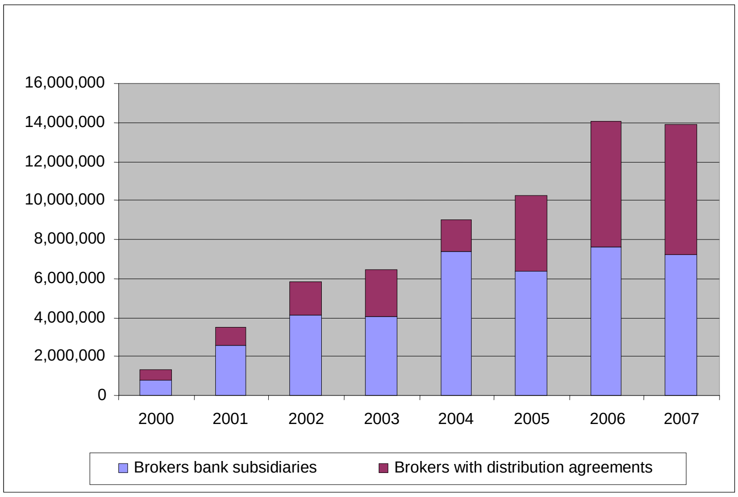
Source: SVS

Table 15. Premiums Non-Life Companies (Million US$)

	2005	2006	2007
Bancassurance	0,3	0,4	0,8
TOTAL PREMIUMS	1,0	1,6	1,9
Total of premiums	33%	26%	43%

Source: SVS

Figure 6. Number of insured



Source: SVS

1.3.3. Compulsory insurance products

Fire is only compulsory for insurance associated with mortgages, and earthquake insurance is not compulsory. Compulsory Personal Accident Insurance for Motorized Vehicles (SOAP) is compulsory and represents about 3% of non-life total gross premium in 2008. SOAP is a compulsory insurance required for obtaining and renewing motor vehicle license plates. This insurance operates as a no-fault system, sufficing to prove that the deaths and/or injuries was the result of an accident. The driver's responsibility does not have to be proved.

Table 16. Main providers of SOAP (December 2007)

Name	Premiums in US$ millions	Market Share (%)
PENTA-SECURITY	14,8	21,7
BCI	14,0	20,5
ASEG. MAGALLANES	12,2	18,0
ROYAL	7,5	11,1
MAPFRE	7,0	10,3

Source: SVS

1.3.4. Entries into and exits from the insurance industry

There have been a number of entries into the market, both domestic and foreign. The high entry rate by both domestic and foreign insurers would point towards a regime that is not discriminatory to foreign insurers. Many of the exits are the result of mergers, which indicate some consolidation in the industry.

Table 17. Entry into life sector (2000-2007)

Banedwards	Domestic control	May 2000 (de novo)
BBVA	Foreign control	October 2000 (de novo)
Mapfre	Foreign control	October 2000 (de novo)
CLC	Domestic control	June 2006 (de novo)

Table 18. Entry in non-life sector (2000-2007)

Huelén	Domestic control	July 2002 (de novo)
Santander	Foreign control	July 2006 (de novo)

Table 19. Exit from life sector (2000-2007)

AETNA	Foreign control	Absorbed by ING May 2001
ABN Amro	Foreign control	Sold its portfolio in March 2006
El Raulí	Domestic control	Absorbed by Cruz del Sur Vida in August 2000
La Construcción	Domestic control	Sold to Bice Vida in August 2005
Vitalis		Merged with Consorcio in February 2005
ISE-Las Américas	Domestic control	Sold to Penta Vida in November 2003
Le Mans	Foreign control	Purchased by local investors and defaulted in November 2003
Mass Seguros de Vida	Foreign control	Absorbed by its local shareholder Vida Corp in May 2000

Table 20. Exit from non-life sector (2000-2007)

La Italia	Domestic control	Defaulted in March 2001
AGF Allianz	Foreign control	Absorbed by ING in March 2006 and later sold to Liberty Company
ABN Amro	Foreign control	Sold its portfolio in March 2006
Security Previsión	Domestic control	Absorbed by Las Américas in March 2002

Source: SVS

1.4. Main risk exposures of the insurance sector

The impact of the financial crisis

The global financial crisis has so far had a limited impact on the insurance sector in Chile. However, the majority of Chile's insurers are foreign-controlled insurance undertakings and may be affected by the market turmoil and require monitoring for possible repercussions to insurance subsidiaries in Chile. Credit risk stemming from the issuers of the instruments in which the insurance companies invested has increased due to lowered credit ratings and losses in investments in structured credit instruments issued by financial companies at an international level.

There are market risks from the reduction in the value of instruments in which companies invest. As a result of the financial crisis, companies have experienced losses in their equity holdings. The wider spreads may lead to losses in the instruments held by the insurance companies. The decrease in value of fixed-income instruments have not been reflected in the balance sheet of companies yet, leaving their capital unaffected given that the majority of this type of investment is accounted for as an amortized cost (classified as hold-to-maturity investments).

As a result of decreased economic activity, sales of insurance premiums are expected to fall in automobile and fire insurance. The economic recession would also affect the rate of claims on payment protection insurance.

For life insurance products, alongside an expected drop in the sale of new policies, it is likely that there will be an increase of fund surrender for policies with a savings element and a decrease in the renewal of policies (lapse risk). In the case of annuities, it is likely that the market will contract due to the fall in the value of pension funds.

The surrender of life products could generate liquidity problems in insurance companies as well as losses due to the high fixed costs. Some companies have already reduced their number of staff to adjust to the market contraction.

Risks of pension related business

In annuities business, there are two major sources of risk: longevity risk and reinvestment risk. Longevity risk would arise from unanticipated medical advances and/or diet improvements affecting the long-term outlook for annuities payment. Annuity contracts could also be mispriced due to unrealistic assumptions on reinvestment rates. In Chile, life insurers with annuity liabilities show a systematic mismatching of assets and liabilities, due to the scarcity of assets with similar durations as the liabilities. This is an issue that will need to be addressed in the long run as the mismatch of maturity can be problematic when a large portion of policies are being claimed or in the context of a natural disaster.

The instruments used by the insurance companies to cover their annuity obligations are primarily fixed-interest, inflation-indexed debt instruments, principally consisting of Chilean corporate and government bonds. These instruments have an average maturity of less than 20 years. But more long-term, alternative investment options have been developed in the last few years, for example, mortgages with maturities of up to 30 years. Annuities sometimes have a payment structure that exceeds 40 years, which makes the issue of maturity dates of assets essential to the portfolio of life companies.

AFP insurance covers the risk of insufficient funds necessary to purchase annuities in case of disability or death of a pension fund member. Previously, because premiums were adjusted after a certain period, this resulted in AFPs assuming most of the premium, which was possible because AFPs engaged insurance companies belonging to the same conglomerate most often. Currently, the AFP is not allowed to assume this risk, and all the risk must be assumed by the insurer. These changes will bring a higher level of risk to the insurer and higher premiums to AFP insurance.

To mitigate the risks of AFP insurance, coverage of the first contract is limited to a year. After the first contract, coverage extends from one to four years, but if it is longer than two years, the insurer is entitled to an adjustment to the annual premium in case there is a high level of claims. The insurers can only participate in AFP insurance if they present a credit rating equal or better than A- and available capital in excess by 20% of the solvency capital requirement.

Risks of non-life lines

Chilean non-life insurers have high exposure to catastrophic risk (*e.g.,* earthquake), and large industrial risk (*e.g.,* mining companies), but they have a low retention ratio.

Non-life insurance companies offer policies that usually cover against damages produced by wind, flood, river and seas overflowing, snow, avalanche and rainfall. These policies are usually added to insurance against fire, vehicle damage and, occasionally, electric devices, and are not mandatory.

There is an agricultural insurance that covers damages to crops stemming from unexpected climate change. The state-run Comité de Seguro Agrícola (Agricultural Insurance Committee) subsidises the premiums based on the size of land up to 50% of annual premiums. The scheme is voluntary, and run by two non-life insurers and the scale of premiums remains small although the risks are significant.

Large-scale risks

The major natural catastrophe risk in Chile is earthquake and a tsunami caused by an earthquake as Chile is one of the most seismically active regions in the world. Over the last century, Chile has experienced more than a dozen major earthquakes.

The last major earthquake in Chile was in 1985 and affected 20,000 square miles. Economic losses were USD 1.8 billion, of which USD 100 million was assumed by the insurance market. Because Chile is one of the most seismically active areas, the country's building codes and practices have, according to the SVS, been adapted to respond which mitigates financial risk.

Insurance against earthquake risk is offered as an additional coverage to fire insurance and other property policies, and includes direct damage resulting from the earthquake or loss of benefits or continuing business interruption as a result of an earthquake.

2. REGULATORY, SUPERVISORY AND TAXATION FRAMEWORK

Chile has been engaged in significant reforms in the financial system, which are aimed at both encouraging competition in the voluntary retirement saving market, and creating a more flexible regulatory regime.

Chile carried out Capital Market Reforms I and II that were implemented in 2001 and 2003 respectively to introduce measures designed to encourage competition between banks, insurance companies and pension funds in their offering of voluntary pension fund savings (APV). The Capital Market Reforms allow foreign companies to operate in Chile through branches, while they were previously only allowed to operate through subsidiaries.

Further, Chile has been undertaking the transition to a risk-based supervisory structure that will be principle-based regulation and entail greater responsibility on the part of insurance companies. Further reforms in the regulatory regime are expected in capital regulation, investment regulation and corporate governance of insurance companies.

Chile's self-assessment of the Insurance Core Principles of the International Association of Insurance Supervisors carried out in 2004 leaves a majority of items as partly observed. Some items have since been addressed. Chile was subject to an assessment under the Financial Sector Assessment Program (FSAP) of the International Monetary Fund (IMF) in 2004, but the accompanying Report on Observation of Standards and Codes was not carried out for the insurance sector.

The main legal instrument applied to corporate governance is the Corporation Law. However, a draft bill related to solvency supervision of insurance companies which addresses corporate governance is being analysed by the Ministry of Finance, and Chile has committed to giving priority to its presentation and passing in the Congress.

The appointment and dismissal of the superintendent of the SVS is carried out by the President of Chile. While the superintendents have generally been considered competent, there is recognition that greater political independence of the superintendent would benefit the functioning and reputation of the SVS.

Furthermore, only a limited framework for group-wide supervision exists despite many insurance companies being part of a financial conglomerate, and firewalls not being adequate. Risk can easily be shifted or propagated within the group. Chile has drawn up an action plan to improve group-wide supervision which is discussed in detail below.[7]

Policy and regulatory initiatives

Chile embarked on regulatory changes through the Capital Market Reforms I and II which took place in 2001 and 2003, in order to encourage greater competition in voluntary pension fund contributions. Additionally, regulatory procedures were relaxed in which product registration was changed from an approval process to a notification system.

Since 2006, Chile has been taking steps to implement risk-based supervision through the pillar approach to supervision. This is also being incorporated into its solvency regulation, with risk capital becoming part of its solvency requirement. Supervision is also being adjusted to adopt to risk assessment by supervisors.

[7] See section 2.3.7. Group-wide supervision.

Chile has been undergoing a time of proactive regulation to address many of the shortfalls of its regulatory and supervisory regime. The aim is to allow greater flexibility in regulation so that market players can innovate and adapt to changing market conditions. The reforms have, in fact, enabled insurers to diversify and enter new markets as well as use new business models that are adjusted to the market demand.

Table 21. Policy initiatives in Chile since 1995

1995	A solvency margin, similar to Solvency I, was introduced.
	Insurance companies are allowed to invest a percentage of their assets abroad and to use derivatives for hedging.
1998	Banks are allowed to create insurance intermediaries as subsidiaries offering *bancassurances*.
2001	A Policy Deposit is created that replaces a former process of registering each new product of insurance companies.
	Insurance policies can be offered as part of the voluntary pension saving system (AVP). Significant tax benefits are provided to such policyholders.
2002	Insurance companies are allowed to lend money to the public with some restrictions.
2003	VaR is permitted as a method for calculating market risk.
2004	An electronic system for pension offers and quotations is established as a compulsory method of acquiring an annuity upon retirement. Pensioners must buy a life annuity through this system, which give more transparency and confidence to the retirement process.
	A limit is set for commissions paid to intermediaries when purchasing an annuity. Commissions were previously freely set, enabling AFPs to charge a large amount of which part would be paid back to the annuity recipient, distorting competition in the market and circumventing restrictions on the payment of a lump-sum to plan members.
2005	Mortality tables for life annuities and technical provisions are updated.
	A new asset sufficiency test is established to assess reinvestment risk and mismatching, especially for life insurers that have annuities liabilities.
2007	Additional faculties for the SVS for licensing and intervention.
2008	A new system for group voluntary pension saving is created for employees of a company (similar to the 401(k) system in the US) and life insurance policies are included as a saving instrument in this system.
	Insurance companies are allowed to create pension funds as subsidiaries.

Source: OECD Secretariat

The Capital Market Reforms have introduced changes to the insurance market and further reforms are being planned. The planned new regulatory measures are aimed at establishing new capital and corporate governance requirements, relaxing restrictions on investments and broadening the scope of products that are offered by companies.

Insurance companies were allowed to lend money to the public in 2002. Insurance companies can lend money to persons and firms up to the global limit of 5% of technical reserves plus solvency capital requirement. Insurance companies cannot lend to related parties.

Shift to risk-based supervision and bill to reform insurance regulation

In 2006, SVS decided on the need to adopt a risk-based supervisory approach. The main objectives of the new risk-based supervisory approach were to strengthen the risk management system of insurers, to carry out preventive control, to have a flexible regime that emphasises principles, to have a supervisory system that more fully complies with international standards and recommendations, and to focus resources according to riskiness of activities. This approach would be accompanied by a new solvency regime based on a risk-based capital approach. The new approach would consist of two levels:

i) level 1: minimum solvency requirements with risk-based capital, new investment regulations, and valuation of assets and liabilities based on economic value; and ii) level 2: risk assessment and mitigation activities based on a risk-based supervisory focus, corporate governance, market conduct and disclosure.

For the risk-based supervisory structure to be effective, the standard of insurance supervision needs to be high. The SVS is able to remunerate insurance supervisors in line with market participants which would assist in maintaining high supervisory standards.

During 2008, a bill was drafted and a manual was prepared to start the risk-based assessment of insurance companies. However, the introduction in congress of the bill to address this is pending, and the development of risk-based supervision and formalisation of it depends in part on its passing. The bill addresses the quality of risk management policies and procedures implemented by insurers' senior officers, which have resulted in more resources invested to strengthen this aspect of companies' operations. The bill on corporate governance of insurance companies addresses the following:

- insurers are required to employ at least one actuary listed in the special registry of SVS;
- insurers are required to manage the level and portfolio of investments to ensure compliance with the investment regulations in the law;
- it is the responsibility of the board of directors to define the investment policy of the insurer in accordance with risk levels; and
- insurers are to be classified according to their risk level, in which the SVS will have separate procedures and methodologies to evaluate each risk level in terms of the quality of risk management, internal control systems, corporate management's knowledge and experience and compliance with principles of good practice related to corporate governance.

Chile has committed itself to giving priority to the presenting and passing of this bill in order to ensure that the corporate governance regime accommodates the introduction of a risk-based supervisory regime. In the meantime, the SVS is planning to issue good practices on risk management and corporate governance, which SVS could use to carry out risk assessment. Although these guidelines would not be binding, there would be a strong incentive to comply, as a high risk classification by the SVS would have important consequences in terms of supervisory intervention.

Table 22. Framework of bill to reform insurance regulation

Level 1: Capital requirement	"Total balance sheet approach" will be used to determine the risk of assets and liabilities according to the estimation of solvency capital required from each.
	A company's capital will be determined based on market value of a company's assets and liabilities in accordance with IFRS.
	Insurers which meet certain requirements would be able to use internal models which are approved by the SVS.
Level 2: Level of supervision	Analysis of the quality of risk management, governance and internal control functions on the insurer will be carried out.

Source: OECD Secretariat

2.1. Self-Assessment against Insurance Core Principles (ICPs)

Chile carried out a self-assessment of its supervisory and regulatory regime against the ICPs of the International Association of Insurance Supervisors (IAIS) in December 2004. While Chile has since introduced new measures that address compliance with some of the ICPs, its overall position relative to the ICPs remains to be improved. Various factors affect this outcome, but specifically, the limitations engendered by the legal framework and procedures have a strong influence.

Chile has self-assessed that it observed ICP 5 and 16, respectively supervisory cooperation and information sharing, and winding-up and exit from the market. While ICP 5 is observed in a general sense, this has not extended to group-wide supervision, which is assessed as partially observed for ICP 17. There have been some attempts to coordinate supervision, but they have not led to joint supervision or adoption of a lead regulator approach.

Most of the ICPs related to supervisory procedure are partly observed. Some items such as ICP 1, conditions for effective insurance supervision, and those related to sanctions and regulatory action, are largely observed. However, where discretionary powers could more effectively regulate the industry, such as fit and proper rules, corporate governance, and preventive and corrective measures, the ICPs are partly observed.

ICP 27 on fraud is partially observed as Chile does not have procedures to prevent and report fraud.

It is expected that some of the ICPs will shift towards the largely observed category if risk-based supervision and subsequent planned legislative changes are implemented. The IMF has scheduled an FSAP of Chile in October 2010 which is likely to include the assessment of Chile against the ICPs. This would assist in ascertaining the position of Chile against the ICPs.

2.2. Regulatory structure

The SVS is an autonomous institution with a budget funded by the government and interacts with the Government through the Ministry of Finance (MOF). The development of legislation for insurance is the responsibility of MOF. SVS is in charge of supervising entities related to the securities and insurance market. The four main functions of SVS are enforcement, regulation, sanctions, and market development and promotion. SVS can issue technical regulations that the insurance law permits its discretion in the matter. Discretionary power of the SVS extends from aspects of insurance contracts to technical supervision. Items that are already defined in the Insurance Law, such as capital requirements, investment limits, licensing requirements, and regulatory intervention, are not within the ambit of its discretion. For items that are not mentioned in the Insurance Law, such as risk management and corporate governance, the SVS is planning to issue good practices that will be used when carrying out risk assessment of the insurer.

The budget of SVS was USD15.2 million in 2008, and USD17.7 million for 2009. The main items of expenditure are personnel, consumer goods and services, transfers to international organizations, acquisition of non-financial assets, debt service and cash balance.

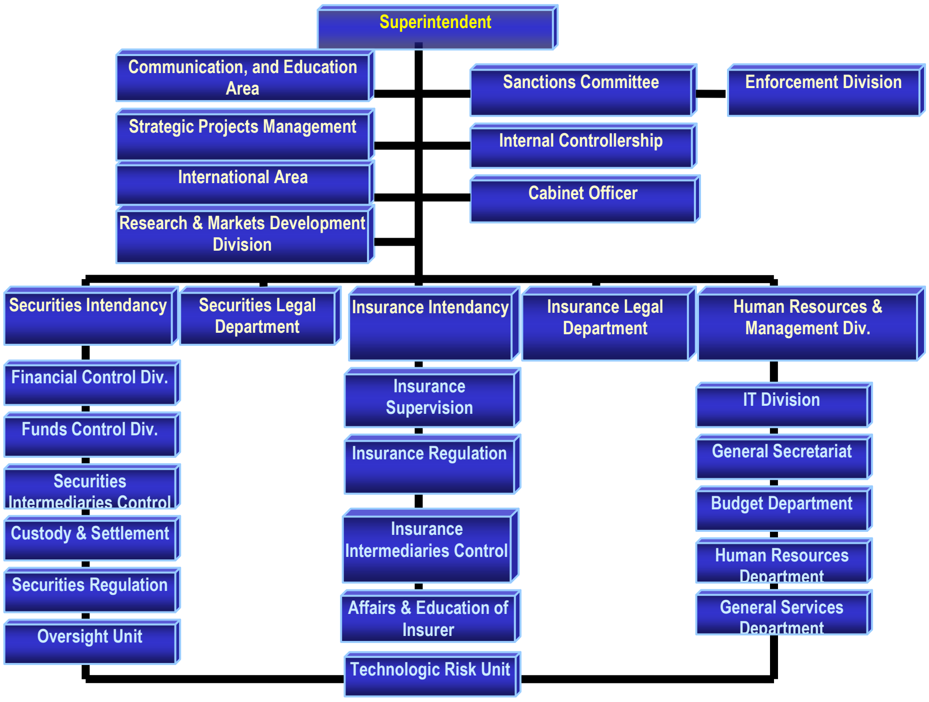
The number of staff of SVS is currently 293, of which 70% are professionals with qualifications such as auditors, business studies and lawyers.

Table 23. Insurance staff turnover of the SVS (total number of staff, 69)

	No of resignations	Rotation rate (%)
2008	4	5.8
2007	1	1.4
2006	4	5.8
2005	2	2.9

Source : Chilean authorities

Figure 7. Organizational Chart of SVS



Source: SVS

The superintendent of the SVS is appointed by the President of the Republic. The superintendent has the authority, responsibilities and obligations indicated in the Basic Statute and those granted to him by laws related to the securities and insurance markets, respectively.

Independence of SVS

The superintendent has the power to dispose resources freely, manage, acquire and dispose of goods, except those buildings whose acquisition or disposal requires the Minister of Finance's approval. The superintendent has the freedom to change the organization of SVS and the power to allocate human resources as needed. The budget of SVS is itemised and spending is limited within the range of the budget.

For the appointment of the superintendent, there is no transparent and competitive selection process. The superintendent can be removed by the President of the Republic at will, making the independence of SVS ambiguous. It appears that consideration towards competence of the superintendent is strong, as the previous superintendent resigned after a year from appointment: however, there are no criteria for competence. SVS is trying to address this issue by proposing to become a Commission, which would allow the superintendent and other high officials to be selected by different organisations of the government.

SVS is not required to consult with other bodies before approving regulations and rules that are within its ambit as dictated by law. The National Comptroller reviews SVS' accounts but cannot review its decisions.

There are currently two vehicles for coordination. SVS is part of the Board of Capital Markets coordinated by the MOF, on which the Central Bank, the Superintendence of Bank and Financial

Institutions (SBIF), the Superintendence of Pensions (SAFP) and SVS sit. The Board of Capital Markets works on issues related to capital markets.

Separately, there is a Board of Superintendents that is composed of the Superintendents and the governor of the Central Bank. An annual work schedule is organised for supervision, training and regulatory development. In the last few years, both Boards have upgraded their functioning by establishing a Secretariat.

SVS engages in *ad hoc* coordination for specific issues. For example, the supervision of insurance distributed by banks' subsidiaries and brokers, monitoring of the current financial crisis, and new regulatory implementation of IFRS have been some of the issues being addressed jointly. Each supervisory authority supervises annuities, AFP insurance, *bancassurance* in the area related to their responsibilities.

The independence of the SVS is guaranteed in the area of deciding sanctions and regulation, budget and personnel. However, the appointment and dismissal of the superintendent of the SVS is carried out by the President of Chile. The government is planning to improve the legal framework of the SVS to enhance independence. The Ministry of Finance requested the SVS to submit a whitepaper drawing out its institutional reform which was submitted for public consultation at the end of 2008. The government will decide on the method in which to address institutional design of the financial regulators after the upheaval of the financial crisis has settled and the global consensus on regulatory reform is clearer.

2.2.1. Accountability of SVS

SVS is required to publish an annual report and submit a quarterly report (Integral Performance Report) to the MOF, in which the SVS describes progress made in completing specific projects and meeting indicators established each year. The Council of General Government Internal Audit, operating under the auspices of the office of the President of the Republic, sets policies and plans related to the internal control of SVS, and monitors the activities of SVS against the set objectives.

2.3. Legal Framework of SVS

The operation of SVS is set by the Chilean *Insurance Law*. The *Commercial Code* contains the regulations applicable to insurance contracts, including contract features and the obligations of the parties involved. The Insurance Law establishes regulation-making authority applicable to the insurance markets. The law dictates the operation of the insurance market and unless the law confers the power to SVS, regulations cannot be issued.

The Insurance Law consists of 90 articles that cover insurance activities and regulation, but does not cover technical issues or specifics of insurance regulation and activities. Discretionary power of the SVS extends from aspects of insurance contracts to technical supervision. Items that are already defined in the Insurance Law, such as capital requirements, investment limits, licensing requirements, and regulatory intervention, are not within the ambit of discretion. For items that are not mentioned in the Insurance Law, such as risk management and corporate governance, the SVS is planning to issue good practices that will be used when carrying out risk assessment of the insurer. While these good practices would not be binding, it is likely that insurers would follow them.

2.3.1. Licensing

Insurance and reinsurance business in Chile requires the authorisation from the SVS. Insurance companies must be legally incorporated in Chile while companies constituted overseas may set up a branch in the country. This requires the foreign insurance company to provide evidence that it meets regulatory requirements that are the same as domestic insurance companies. This means that prudential and financial requirements are imposed on branches. The main difference in terms of regulatory requirements between a foreign subsidiary and foreign branch is that the latter is not required to have a legal structure and a board of directors in Chile. For solvency purposes, the capital that backs their local operations must be effectively invested in Chile so as to ensure that policyholders are protected in the case of insolvency without having to resort to the parent entity. Furthermore, transactions between a branch and its main office are considered as independent entities.

Insurance and reinsurance companies established in Chile can reinsure risks in Chile. A foreign established reinsurer conducting business without establishment may reinsure risk in Chile if it has a credit rating of at least BBB.

SVS has established MOUs with five other insurance regulators (Autorité des Marchés, Quebec; FSA, United Kingdom; FSB, South Africa; Autorité des Marchés, France and SPVS, Bolivia). Given that foreign branches are permitted to operate in Chile and to ensure the safety of its operations, better international coordination with other insurance regulators is necessary for the operation of foreign subsidiaries and branches in Chile.

Regulatory requirements

a) Insurance and reinsurance companies established in Chile are required to have a minimum capital of UF 90,000[8] (USD 3.7 million) or UF 120,000 (USD 4.9 million).

b) No company may jointly engage in i) non-life insurance and credit insurance, and ii) life insurance and annuities.

c) Insurance companies can only reinsure risk in respect of the insurance lines in which they are authorized to operate.

d) Personal accident and health risks may be covered by companies from either i) or ii).

e) Credit insurance must be insured by i) companies dedicated to covering this type of risk.

The purpose of separating the lines of insurance is to establish separate solvency requirements for each line. However, insurers from i) and ii) can establish holding companies in which they form a conglomerate, and information and some areas of management can be shared among them.

2.3.2. Supervision of insurance products

In 2001, a so-called “policy deposit” was created to replace the former procedure required for registering each new product of insurance companies. Prior to the policy deposit, there was a registry regime which required the approval of SVS for new insurance policies. Now insurers only need to send the new products to the deposit before beginning to offer the product to the public with a short notification period of six days instead of prior notification. This has removed the bottleneck for introducing new products, significantly decreasing the number of days required from the time the product is deposited to its offering.

[8] UF is an inflation-indexed denomination used in Chile.

2.3.3. Solvency requirements

In 1995, Chile adopted a solvency margin similar to the EU's Solvency I for capital requirements. The current regulatory system requires the following:

- Technical Reserves that are determined according to the technical criteria and parameters set by SVS.
- A solvency margin that is either a minimum capital level equivalent to UF 90,000 (USD 3,700,000) or a higher risk capital determined according to the level of operations of the companies (the higher amount between the solvency margin and the capital associated with the maximum leverage).
- To limit the losses of insurance companies, the investment regime sets out the assets that can be invested in, as well as the maximum investment by asset and issuer.
- Solvency margin corresponds to a fixed coefficient over either premiums or claims, especially for non-life insurance.

The solvency margin of **non-life** companies is the greater of the following two:

- Calculations based on premiums: by multiplying the premiums for each line of business with the factor designated by the SVS.
- Calculations based on claims: by multiplying the average claim load for each line of the last three years with a factor designated by the SVS.

Table 24. Factors to be multiplied for non-life insurers' solvency margin (%)

	Group of risks				
	Fire	Automobile	Others	Big risks	
				Fire	Others
Premiums	45	10	40	45	40
Claims	67	13	54	67	54
Reinsurance	15	57	29	2	2

Source: SVS

The solvency margin of **life** companies is calculated by the sum of the following three:

- For accidental, health and other non-life insurance: by multiplying either premiums or claims with the factor designated by SVS.

Table 25. Factors to be multiplied for non-life insurers' solvency margin (%)

	Groups of risks: accident, health and other
Premiums factor	14
Claims factor	17
Reinsurance factor	95

Source: SVS

- For products that do not generate mathematical reserves, excluding those related to the mandatory pension scheme: 0.05% is multiplied to capitals in risk.
- For products that generate mathematical reserves: the solvency margin is calculated by:

  5% of [Total liabilities + Indirect liabilities – Technical reserves for risks mentioned above]

Insurance companies that want to participate in the bidding process to provide AFP insurance are required to have an additional 20% capital requirement to ensure their safety. This is a financial requirement that is being made as AFP insurance is an important element of the social security network.

SVS is currently in the process of developing a new solvency regime, including minimum solvency requirements (level 1) and a complementary supervisory level to assess the risks of the insurer through a qualitative evaluation of its management principles or best practices (level 2). This is an approach similar to Solvency II being developed in the EU.

The IMF's Article IV consultation of 2004 recommended the update of mortality tables that life insurers use for technical provisions. These tables were updated in 2004 (pensioners) and 2006 (beneficiaries), incorporating mortality improvements. SVS is committed to reviewing and improving these tables at least every five years.

2.3.4. Investment regulations

Chile follows a detailed rule-based, investment regime, with established diversification limits regarding each investment asset backing technical reserves and risk equity stipulated in the Insurance Law.[9] Assets of life insurers are essentially held at book value for held-to-maturity assets, while non-life insurance companies generally report market value for their assets.

Investments in Chile are mainly in UFs, which is an inflation-indexed denomination used in Chile. In most cases, investments are limited to UF-denominated assets for capital and provisioning requirements. This has the effect of limiting investment choices, while insulating investments from inflation.

In the bill due to be presented in congress, a new investment regime would be established featuring risk analysis for investments as well as risk management policies. The majority of restrictions and limits on investments are eliminated in the bill, and the investment risk is included in the capital requirement and addressed at the supervisory level. The draft article related to investment regulation states that "companies must always maintain investment in accordance to level and profile of liabilities that allow them to comply with the obligations and equity requirements established by this law. The company's board of directors is responsible for defining investment policy and adopting those measures that guarantee that they be met." Further, investment policies must take into consideration risk and return, matching liabilities with assets, and diversification of the portfolio. The draft investment regulation is a prudent man regulation with specific requirements related to solvency. The bill also gives SVS the power to issue guidelines on investment policies and to assess the quality of investment management, and the power to take actions to mitigate excessive risk when necessary effectively shifting to a prudent-man approach.

[9] See Annex for current investment regulations.

2.3.5. Corporate governance

SVS has been drawing up a bill to reform Chile's Insurance Law to implement a new risk-based supervisory approach. The bill incorporates new requirements on the corporate governance of insurance companies, including issues relating to the functions and responsibilities of the board of directors, external auditors and the role of actuaries.

Before the bill is passed, the SVS is planning to issue good practices on risk management and corporate governance, which would be used as the basis for SVS to assess risk. Although these guidelines would not be compulsory, there would be a strong incentive to comply, because high risk classification by the SVS could have important supervisory consequences.

The proposed supervisory approach would require SVS to assess the risk of individual companies and their management, and would enable the authority to take preventive action against potential solvency problems. Corporate governance would be a key qualitative factor in the assessment of risk management and an essential element of the new supervisory approach. The bill and SVS guidelines are aimed at bringing Chile's corporate governance regime for insurance companies in compliance with OECD's Guidelines for Insurers' Governance and the *Core Principles* of the International Association of Insurance Supervisors (IAIS). However, implementation is subject to the bill being passed in congress.

The bill on corporate governance of insurance companies addresses the following items of corporate governance:

- insurers are required to employ at least one actuary listed in the special registry of SVS;
- insurers are required to manage the level and portfolio of investments to ensure compliance with investment regulations in the law;
- it is the responsibility of the board of directors to define the investment policy of the insurer in accordance with its risk levels; and
- insurers are to be classified according to their risk level, in which the SVS will have separate procedures and methodologies to evaluate each risk level in terms of the quality of risk management, internal control systems, corporate management's knowledge and experience and compliance with principles or good practice related to corporate governance.

Chile has committed itself to giving priority to the passing of this bill in order to ensure that the corporate governance regime improves to accommodate the introduction of a risk-based supervisory regime. What will remain vital after the passing of the bill is for Chile to draw up comprehensive guidelines or good practices in the area of corporate governance to flesh out the intent of the bill. Providing the insurance market with comprehensive guidance on internal controls and fit–and-proper rules will be important for the safety, soundness and stability of the insurance market.

2.3.6. Regulatory actions

SVS has the power to censure or reprimand, fine, suspend management for up to six months, suspend all or some operations up to six months, and revoke authorization for non-compliance with regulations and rules, or wrongdoing. Fines can be imposed for a sum of 15,000 UF (9 million USD) or to sums up to three times this amount for repetitive violations. If the license of an insurance company is revoked, SVS assumes the management of the company in order to proceed with its liquidation, which must be published in the Official Gazette of Chile.

Fines are determined based on:

- the severity and consequence of the event;
- the financial capacity of the offender; and
- if the firm has committed another infraction in the last 24 months.

Nevertheless, the SVS does not have a list or procedure that prescribes the method in which fines are determined, the only mandate in law being to consider the severity and consequence of the event. Past fines are the only measure of understanding the level of fine that might be imposed for a wrongdoing.

In 2003, a domestic life insurer Le Mans became insolvent due to weak corporate governance which resulted in a fraud carried out by the main stockholder and its senior management. Le Mans could not fulfil its solvency capital requirement and investments could not back the technical reserves. Le Mans was declared bankrupt in 2004 and SVS ran a liquidation process of the company until 2007, when SVS transferred Le Mans' portfolio to Euroamerica, another domestic life insurer.

The main concern in the Le Mans incident was the 3,000 pensioners (life annuitants) who had annuities contracts with the company. Because investments are likely to become insufficient in 10 years time, it is likely that the State Guarantee will take place.[10] The State Guarantee is extended to pension related items to ensure minimum payout. The pensioners that are due to receive their pension will suffer a reduction of payments if their pension payment is higher than the minimum pension payment.

La Italia became undercapitalised on many occasions leading to its default in 2001. Despite its small market share, it grew in a competitive line of business and claim levels became negatively affected after a few years. However, shareholders were not able to finance the necessary recapitalisation, requiring SVS to take over the company through a designated manager. The majority of claims were fully paid and some of them were partially paid. The policies were cancelled and unearned premiums were returned to the policyholders.

2.3.7. Group-wide supervision

Chile's insurance market is dominated by insurance companies that are part of conglomerates. Most often, these are financial conglomerates that are formed under a general holding company, but have various financial entities under the umbrella company. Insurance companies must establish separate corporations for life and non-life lines, but the holding companies are permitted to hold providers of life, non-life and credit insurance, as well as other financial institutions. This structure has enabled financial conglomerates to promote and cross-sell products from other entities within the group, in addition to sharing essential functions such as building, management and administration.

Despite the close relation that entities within a conglomerate have, there has been very limited group-wide supervision being carried out in Chile. The current effort coordinates the three supervisors: Superintendencia de Bancos e Instituciones Financieras (SBIF), Superintendencia de Pensiones (SP) and the SVS. Together with the central bank, they convene the Capital Market Committee which is led by the MOF to coordinate regulatory policies. The regulators and central banks also convene monthly the Superintendents Committee that coordinates the supervision of regulated entities. However, the

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[10] In Chile, there are no compensation funds, but there is a State Guarantee to life annuities in the pension system, which protects policyholders in the case of bankruptcy of a life insurer. For more details, see section 2.4. Early intervention and winding-up/insolvency.

extent of collating consolidated balance sheets or information sharing of problems has been unclear. Chile participates in a Supervisory College with other foreign supervisors for some of the international insurance groups to share information on the group's operations in Chile.

Chile has drawn up an action plan to improve the method by which conglomerates are supervised. The Superintendents Committee has recently signed a MOU to formalise its commitments and objectives.

Phase 1

Supervisory workshops will be held on each financial conglomerate to collect data on their organisation and operation to analyse their:

- Mission, objectives and strategy;
- Organisation and structure;
- Financial and commercial policies;
- Financial condition such as assets and liabilities, capital, leverage, liquidity, profits;
- Risk management and internal control system of each entity and as a holding company;
- Policies, nature and amount of related party transactions, and
- Corporate governance.

Phase 2

Action will be taken to identify the risks of each financial conglomerate in Chile and formulate the method of supervision.

Phase 3

An action plan, including individual and joint activities between the three regulators, to incorporate supervisory procedures for financial conglomerates into regular supervisory activities will be put in operation based on the discussions in Phase 1 and 2.

2.3.8. Accounting

Chile is introducing the IFRS accounting system for most of its publicly traded companies. In general, those companies that are most heavily traded on the stock exchange will be required to adopt the IFRS by the end of 2009. Other listed companies will be adopting IFRS by 2010.

As part of the nationwide drive to convert to IFRS, the SVS has also held discussions and consultations with the industry since 2005 with the view of gradually implementing IFRS. Insurance companies, mutual funds and securities brokers will be subject to IFRS by the end of 2010. While the application of IFRS has been clearer for assets, the manner in which technical reserves will be accounted has yet to be defined by the SVS.

IFRS accounting will be used for supervisory purposes and, where applicable, for submissions to the stock exchange. However, the tax authority will continue to require companies to submit tax returns in the current local accounting standard. Those insurance companies that have a US parent body are using the US GAAP accounting, and will eventually be using three accounting systems. The double and triple accounting that insurance companies will be subject seems unnecessarily burdensome, especially since the IFRS is being introduced in a nationwide effort.

2.3.9. Consultative mechanisms with industry and other stakeholders.

Due to the Free Trade Agreements (FTAs) with the US and EU, Chile is committed to disclosing and publishing all regulations and bills. The SVS publishes drafts regulations with a technical report on its website, and solicits comments from insurers and others stakeholders. SVS hosts meetings, workshops or seminars to discuss proposals or future developments in the industry with insurers and others stakeholders. The website was also revamped as a result of the FTA with the US, with good coverage in both Spanish and English.

2.3.10. Complaints-handling process

SVS has specialized staff offering assistance to expedite responses to questions, requests, complaints, or claims made by the insured or other legitimate interested parties with respect to rights and obligations arising from insurance contracts and applicable legislation. A Service Office is dedicated to provide on advice on life annuities for present or prospective retirees.

2.3.11. Appeal processes and dispute settlement procedures

- Appeal process

A party may appeal the application or amount of a fine before a Civil Judge. The appeal will be resolved in summary proceedings and the decision may be appealed. First and second decisions that reject appeals will make the claimants liable for legal fees.

Regulations and rules of SVS may be contested through the Court of Appeals. Appeals against regulations and rules of SVS are not common, but recently three appeals have been lodged: two against General Character rules of annuities sales agents and one on Firefighters Benefits.

- Dispute settlement system

There is no dispute settlement system in Chile. Nevertheless, SVS could accept to act as an unbiased arbitrator in order to resolve problems that occur between two or more companies, a company and its intermediaries or a company and a policyholder or beneficiary, when both parties involved request it in special circumstances. Most insurance policies contain an arbitration clause, which gives the arbitrator the ability to make a binding resolution. The arbitrator must be agreed between the insurer and the policyholder, or otherwise it will be determined by the justice. If the policy does not contain the arbitration clause, the justice will solve the dispute. The policyholder or beneficiary may alone request that SVS act as an arbitrator to resolve problems that may arise when the amount of the claim is lower than 120 UF (USD7,200) or 500 UF (USD30,000) in the case of compulsory insurance.

The Insurance Association has recently established an ombudsman-like system with an independent adjudicator providing free services to policyholders who are not able to resolve problems with insurers. Policyholders are able to contact the adjudicator at any point of claim, and the adjudicator can make a decision which is binding on insurance companies but not on policyholders. An appeal can be made once. This is a very powerful alternative dispute settlement system, and has handled more than 8000 inquiries since its establishment less than a year ago.

2.4. Early intervention and winding-up/insolvency

The law establishes procedures for the likely or actual insolvency of an insurance company. The legislation stipulates the steps to be taken. Partial or total transfer of the business portfolio is carried out in cases of liquidation by SVS or by an appointed person. The company may be authorized to perform its own liquidation, unless it is a life insurer with obligations in life annuities.

Bankruptcy is presumed when the company does not have sufficient capital to comply with capital requirements or technical reserves and risk capital are not fully backed by investment made in compliance with the law and the regulations of the SVS.

In this case, a detailed explanation must be made to SVS within two business days from the discovery and a reform program to correct this problem must be submitted within six business days from the same date. Most infringements are due to inadequate diversification of assets which the six day rule seems to be accommodate. Recapitalisation would be more complicated and time consuming, but the submission of a capitalisation plan from shareholders within this six days would suffice.

If after 80 business days from the date of the program's approval the situation has not improved, SVS may order the company to comply with one or more measures, during a period of no more than 20 business days.

The same regulatory intervention will be applied if SVS rejects the reform program or if the program is not submitted during the established timeframe. The measures that could be ordered by the SVS include adjustment of investments, reinsurance contracts, portfolio transfer, suspension of the issuance of policies and others that seek to provide a solution to the problems detected.

If non-compliance continues after 20 business days, SVS may assume the management of the company for a period no longer than 40 business days, with the possibility of another renewal. The superintendent or his representative is given the authority granted to directors and managers for the management of the insurer, in addition to his own, allowing him to dispose and acquire goods, underwrite or cancel insurance or reinsurance, transfer portfolios and business, summon an extraordinary shareholders meeting to propose the capitalisation of the company and, in general, take any measure that seeks to provide a solution to the existing problems.

In Chile there are no compensation funds. However, there is a State Guarantee to life annuities in the pension system, which protects policyholders in the case of bankruptcy of a life insurer. In the pension system of Chile, the State plays a vital role within the System, providing guarantees and exercising supervision. The Decree Law, DL 3,500, which is the basic law of the pension system in Chile, establishes that the State must guarantee a minimum pension in case of old age solidarity pension, disability and widowers' pension to the person who fulfils certain requirements. In the event that the insurance company ceases to pay benefits, goes bankrupt, or that these cannot be paid in their entirety in an opportune fashion, the State Guarantee will cover 100% of old age solidarity pension, and up to 65% above the basic old age solidarity pension in case of annuities that involve a higher amount with a limit of a monthly amount of 45UF (USD 1,548).

2.5. Role of actuary

The new risk-based supervisory model gives actuaries an essential role in terms of calculating liabilities and managing insurance risk. The objective is for companies to employ technically and ethically suitable professionals who take on greater responsibility for the company's actuary management. The bill being introduced includes a special requirement in the insurance law to hire at least one actuary.

The Chilean Mathematical Actuarial Institute A.G is the professional body of actuaries which was established in 1936. The objective of the Institute is to study and develop actuarial techniques, to promote the actuarial profession, and to provide its members with instruments to improve their technical knowledge. The Institute is small in size and function, and has not issued any guidelines or qualification standards for actuaries. Hitherto, actuaries in Chile have been mainly educated in Argentina or are Argentineans. The SVS is promoting the development of a specialized actuarial program in Chilean universities to create a career path of actuaries in Chile.

2.6. Taxation of insurance companies

The activity carried out by insurance entities is classified as "services rendered" under the Value Added Tax (VAT) code and thus all insurance policy premiums are subject to a 19% tax, with some exceptions. In addition, domestically established insurance companies are required to pay corporate income tax.

In the case of insurance policies underwritten abroad, current regulations establish a 22% tax on the premium. For reinsurance underwritten abroad, a 2% tax must be paid, which is calculated on the premium yielded without any deduction. All premiums related to marine and aviation activities, and insurance and reinsurance for export credits are exempt from the above VAT tax.

3. MARKET ACCESS IN THE INSURANCE MARKET

Generally speaking, Chile maintains an open regime, permitting foreign insurers to enter the market and operate on a national treatment basis as domestic insurers for both branches and subsidiaries, although some taxation issues exist. The degree of openness is evident from the high proportion of foreign controlled insurers in the insurance market.

Cross-border transactions that are initiated by a potential policyholder to seek policies abroad are also a right of Chileans as stipulated in the Insurance Law. However, cross-border transactions that are solicited by insurers are strictly prohibited by the Insurance Law and the drafted reservations. There are some exceptions to this, which are noted in the following section.[11]

3.1. Framework for foreign participation in domestic insurance markets

Foreign insurance companies may perform the business of insurance and reinsurance in Chile:

(i) through shareholdings in Chilean insurance companies;
(ii) through a subsidiary; or
(iii) as a branch of a foreign-controlled corporation.

The Insurance Law establishes that subsidiaries and branches are subject to the same prudential and legal requirements as Chilean-owned insurers, giving national treatment to foreign controlled insurers. Foreign insurers must set up separate companies for non-life insurance, life insurance and credit insurance. Reinsurance companies can reinsure both life and non-life risks, but must have independent capital for each of these and maintain separate accounting for each group, so that each line meets the equity, debt and technical reserves requirements.

As a result of recent capital market reforms, Chile allows foreign insurers to operate through branches. Previously foreign insurance companies could only operate through a local subsidiary. Now, insurers can operate through branches but are required to adhere to local prudential and capital requirements. The Corporation Law does not deny foreign insurers from establishing agencies.

Foreign insurers not established in Chile are prohibited from offering compulsory insurance and insurance related to social security, namely AFP Insurance, annuities and AVP. A subsidiary or branch of a foreign insurer would be entitled to operate in these areas as they are considered local entities in terms of regulatory treatment.

Branches and subsidiaries of foreign insurance companies can perform the same activities as Chilean insurers, as well as other financial services authorised under the Insurance Law and/or by the SVS. Branches of foreign-controlled insurers, unlike subsidiaries, are not required to have a board of directors. For solvency purposes, the capital of branches is required to be held in Chile and converted to its currency. According to the SVS, this means that in the case of insolvency, SVS does not need to resort to the home country regulator to protect the rights of policyholders, or if the parent entity becomes insolvent the branch does not need to be ring-fenced to protect it from administrative or insolvency proceedings. Transactions between a branch and its main office abroad are considered as independent entities for the purpose of accounting. There are currently no branches of foreign insurers in Chile, nor have there been any application for branching.

[11] See section 3.2.1. Treatment of cross-border insurance for details.

Reinsurers are able to establish branches as the Insurance Law permits the representative of a foreign reinsurer to underwrite.

The capital requirement for branches is considered in terms of “operations” of the foreign insurance company, and covers the sum of all the business underwrote in Chile by that foreign insurer, whether there is one branch or agency, or several.

Guidelines for the licensing and operation of foreign branches have recently been issued by SVS. The guidelines provides procedural guidance on documentation for branch applications, as well as the timeframe for decisions to be made. The guideline also clarifies that rules for domestic insurers are applied to foreign branches.

The Insurance Law states that foreign branches need prior authorisation from the SVS to remit liquid profits subject to equity and solvency requirements. The procedure for remittance of liquid profits has not been established as there are no foreign branch insurers in Chile as of yet. However, the regulation is designed to verify the fulfillment of minimum capital by the branches and the obligation to maintain certain liquidity, and solvency indices.

The remittance of liquid profits are also subject to the International Money Exchange Regulations that are applied to the insurance and reinsurance companies established in Chile by the central bank. This regulation limits the payments or remittance of foreign currency that these entities can carry out or receive from individuals domiciled or residing abroad. The objective of the money exchange regulation is not to give additional authority to the Central Bank to authorise or reject transactions. In other words, the SVS must authorise the remittance of liquid profits if it does not infringe capital requirements or other indices, and it must be performed in accordance to the money exchange regulation.

There is no limitation on the purchase of nationally controlled insurance companies by foreign insurers and local insurance companies have been purchased widely resulting in the high presence of foreign insurers in the Chilean insurance market. This works *vice versa* as well as local insurer have also been buying businesses from foreign insurers leaving Chile. The only requirement which applies for both domestic and foreign insurers is to notify SVS when purchasing more than 10% of shares with voting rights. In this case, the shareholder must be fit and proper although specific rules are not available. Foreign insurers must notify SVS of such purchases, as the right to vote by the transferred shares will not be activated until the SVS approves the transfer.

- **FTAs in relation to financial services**

Chile has bilateral trade agreements with the European Union (EU), the U.S. and Japan. Financial services were also negotiated in the free trade agreement with Australia which came into force in March 2009. The coverage of commitments is very similar in all of these agreements. The Chile-USA FTA enforced in 2004 lead to the branching of foreign-owned insurers that was included in the Capital Market Reform implemented in 2007. Branching is now enshrined in the Insurance Law and no preferential treatment is given to US insurers.

As a general policy, Chile liberalises financial services on a unilateral basis. Only in very limited cases (*e.g.*, MAT insurance in the US and EU trade agreements and branching with specific capital in the US trade agreement) has Chile lifted existing restrictions on international trade in financial services in an agreement.

3.2. Treatment of cross-border transactions

Cross-border transactions are permitted only if the transaction was initiated by the client resident in Chile. If the Chilean resident approaches an insurer abroad, this is permitted in the Insurance Law. However, contracts related to the mandatory pension scheme, annuities, AFP insurance and AVP, are not permitted to be contracted with overseas insurers. Promotional activities by insurers not resident in Chile are not permitted.

Foreign insurance entities established in a country that has an international agreement with Chile permitting it to sell insurance for international maritime transportation, international commercial aviation and merchandise in international transit from that country, may sell these types of insurance in Chile without establishment in Chile.

3.2.1. Treatment of cross-border insurance

The Insurance Law states that any natural or juridical person can freely contract abroad all types of insurance, with the exception of insurance that is compulsory by law and insurance related to the compulsory pension system, if made on his/her initiative. Insurance contracts related to the mandatory pension scheme must be exchanged with insurers established in Chile.

Cross-border insurance contracts are subject to a withholding tax (22%) on premiums in compensation of the VAT (19%) which is applied only to domestic insurance contracts. The tax provisions are designed to achieve broad tax neutrality between insurance contracts concluded cross-border and domestically. Otherwise, solicitation of insurance from abroad is strictly restricted for insurance contracts.

3.2.2. Treatment of cross-border reinsurance

For insurance companies to operate with foreign reinsurers not established in Chile, the latter have to have at least one international risk rating equal to or higher than BBB. Further, domestic life insurers that cede risk related to the mandatory pension scheme to a foreign reinsurer are required to maintain up to 40% of technical reserves for these risks. The requirement for technical reserves can be reduced by up to 100% subject to specific SVS regulations.

Cross-border reinsurance contracts are taxed a rate of 2% to premiums.

Chile believes that the rating requirement for foreign reinsurers to do cross-border business is less stringent than domestic reinsurers which are subject to licensing requirements and prudential oversight similar to insurance undertakings. In other words, a potentially unregulated reinsurer, which possess a BBB rating, could do cross-border business in Chile.

Foreign reinsurers are required to have a representative for their cross-border reinsurance transactions in Chile unless their assigned broker is subject to SVS regulation. The representative of a cross-border reinsurer legally represents the reinsurer in Chile, and occasionally provides information and consultancy services to the foreign reinsurer. The representative would often provide information on changes in the legislation in Chile.

Chile does not have a domestic reinsurer that is operative, and all reinsurance is carried out cross-border.

4. THE POSITION OF CHILE REGARDING THE OECD CODE OF LIBERALISATION OF CURRENT INVISIBLE OPERATIONS

Chile's insurance regime enables foreign insurers to establish branches to operate based on national treatment. Solicitation of cross-border activities is not permitted, but in the case when the client has solicited business, it is exempt from the restriction. Chile has lodged reservations mainly related to cross-border promotion of insurance activities and insurance products related to their mandatory pension scheme.

…D. items on insurance and private pensions

Cross-border insurance contracts are subject to a withholding tax (22%) on premiums in compensation of the VAT (19%) which is applied only to domestic insurance contracts. In addition, domestically established insurance companies are required to pay corporate income tax. The tax provisions are designed to achieve broad tax neutrality between insurance contracts concluded cross-border and domestically.

In the Investment Committee's deliberation in December 2008, Chile has confirmed that planned tax revisions for insurance provided by non-residents would not introduce new restrictions under the Codes. Taxes that are of a general nature, such as income taxes and capital gains taxes are not subject to the Codes[12]. Chile does not presently have a reservation with regard to taxation on insurance contracts.

Chile has committed to extend preferential treatment granted to a Member regarding insurance relating to goods in international trade and related brokerage to all OECD members. The Investment Committee requested that Chile reconsider reservations for items D/2 and D/4 to narrow the scope of reservations for sophisticated investors carrying out cross-border transactions. Chile has reduced its list of reservations for D/4.

Reservations also reflect a general prohibition on promotional activities by non-resident insurers.

D/2. Insurance related to goods in international trade

D/2 refers to insurance contracts that are both proposed with an establishment in the country or cross-border transactions. Chile's reservations apply only to international road and railway transport. For railway transport, these reservations cannot be foregone as a result of Chile's international treaties with neighbouring states, which guarantee access to Chilean ports through railways. For road transport, Chile has ATIT agreements with neighbouring countries which requires insurance to be taken out with insurance companies of the country of origin of the transporting enterprise.

[12] This is stated in the OECD Code of Liberalisation User's Guide 2008, Commentary on taxes on financial and capital transactions.

Chile's proposed reservation

D/2 Insurance relating to goods in international trade.

Annex I to Annex A, Part I, D/2

Remark: The reservation, which includes the activity of promotion, applies only to the insurance of international road and railway transport and of satellites and satellites liability.

~~*Remark: The reservation does not apply in the following cases:*~~

~~*i) the insurance policy is taken out at the proposer's initiative, or*~~

ii) ~~*insurance of international maritime transport (ships and liability for ships), international commercial aviation (aircraft and aircraft liability), and goods in international transit (including merchandise, baggage and all other goods transported*~~ *therein).*

D/3. Life assurance

D/3 refers to cross-border transactions in life insurance and includes pension products or services offered by insurance companies. Chile's reservation includes compulsory products and services, but permits contracts that have been taken out by the initiative of the proposer. Life insurance related to social security network, such as life annuities, AFP insurance, and AVP, cannot be contracted by cross-border transactions.

Chile's proposed reservation

D/3 Life assurance.

Annex I to Annex A, Part I, D/3, paragraph 1

Remark: The reservation, which includes the activity of promotion, does not apply if the insurance policy is taken out at the proposer's initiative and it is not a policy that is compulsory by law or insurance, pension products or services offered by insurance companies that are linked to the pension regime established by Decree Law 3500.

D/4. All other insurance

D/4 refers to the cross-border insurance transactions other than those covered in D/2 and D/3. Chile will not be revising its reservations, due to regulatory concerns it has of allowing non-resident insurers actively seeking business in Chile. Further, because Chile allows residents to purchase insurance abroad, Chile is of the view that sophisticated and corporate clients can carry out cross-border transactions if necessary.

Chile's proposed reservation

D/4 All other insurance.

Annex I to Annex A, Part I, D/4, paragraph 4

Remark: The reservation, which includes the activity of promotion, does not apply if the insurance policy is taken out at the proposer's initiative.

D/5. Transactions and transfers in connection with reinsurance and retrocession

D/5 relates to reinsurance and retrocession contracts. Chile requires that only foreign reinsurers with a credit rating of BBB can reinsure contracts cross-border with Chile. For contracts related to the mandatory pension system, these can be reinsured but the ceding insurer is required to retain a maximum of 40% of ceded amounts in its technical reserves. Foreign reinsurers are required to have a BBB credit rating which the Chileans claim is for prudential purposes, and Chile considers it to be a less rigorous procedure than the licensing procedure for domestic insurers or branches. Branches of foreign reinsurers can establish by virtue of a clause in the Insurance Act on the need to establish a representative which has the authority to underwrite. A foreign reinsurer must accredit that they can fully respond to all obligations of the reinsurance contract.

As was discussed during the Seventh Examination of Members' Reservations to the Insurance and Private Pensions Provisions of the Code of Liberalisation of Current Invisible Operations,[13] "[t]here was a discussion of whether the netting of technical provisions and other prudential measures related to reinsurance and retrocession are subject to the liberalisation disciplines of the Code and in particular to Item D/5. No consensus could be reached within the [IPPC and Investment] Committees on this question. The Committees therefore agreed that such measures could deserve further consideration in the framework of the *Code of Liberalisation of Current Invisible Operations*."[14] Thus, the proposed reservation from Chile has been removed in light of the need for further deliberations within the IPPC and Investment Committees on D/5.

Chile's proposed reservation

~~*D/5 Transactions and transfers in connection with reinsurance and retrocession*~~

~~*Remark: The reservation applies only to the extent that domestic insurers must continue to maintain 40% of technical reserves on insurance contracts related to the mandatory pension system of DL3500 that have been ceded to a foreign reinsurer.*~~

D/6. Conditions for establishment and operation of branches and agencies of foreign insurers

Chile does not have a reservation under D/6. The conditions for establishment in Chile for domestic and foreign insurers are the same. Agencies can be established, by virtue of the Corporation Law not requiring a branch to be staffed by multiple persons.

Under the Insurance Law remittances of liquid profits of foreign insurance company branches can be carried out only upon prior authorisation from the SVS and subject to the rules and statutes of the central bank, and as long as the branches meet equity and solvency requirements. Chile has stated that the purpose of this clause is to ensure that statutory capital requirements are met at all times. Item D/6 of the Code of Liberalisation of Current Invisible Operations states that "[t]he transfer of all amounts which the statutory or administrative controls governing insurance do not require to be kept in the country shall be free." The current requirement for remittance of profits appears to create some uncertainty regarding transfers, even if equity and solvency requirements relating to insurance have been met. Chile should clarify the requirements through communications with the insurance market.

[13] C(2008)4.

[14] *Id*., para 75.

D/7. Entities providing other insurance services

D/7 refers to all other insurance services such as intermediation, auxiliary services and representation. Chile restricts cross-border provision of brokerage and claim-settlement services. Residency is required to establish as an insurance brokerage and claim settlement services provider, which is the rationale for the reservation.

Cross-border insurance and reinsurance brokerage is permitted for those related to international maritime transport, international commercial aviation, and goods in international transport.

Further, other auxiliary services related to the mandatory pension fund regime are restricted.

Chile has revised its proposed reservations to narrow its scope and more accurately reflect existing measures.

Chile's proposed reservation

D/7 Entities providing other insurance services.

Annex I to Annex A, Part IV, D/7.

Remark: The reservation, which includes the activity of promotion, applies only to:

i) intermediation services for insurance contracts other than those relating to goods in international trade and that are not covered by reservations under item D/2;

ii) consultancy services in connection with the mandatory pension system established by Decree Law 3500; and

iii) claim settlement services for contracts entered into in Chile.

~~*i) provision of brokerage and claim settlement services for all types of insurance other than reinsurance brokerage and the brokerage of insurance of international maritime transport, international commercial aviation and goods in international transport;*~~

~~*ii) the offer of other insurance services in connection with the mandatory pension system established by Decree Law 3500*~~

D/8. Private pensions

For the mandatory pension fund regime, services other than insurance brokerage, which are already covered in the reservation of D/7, is limited to financial institutions established in Chile. This is reflected in the reservation, where services for pension funds not part of the mandatory system are permitted to provide cross-border transactions.

Chile's proposed reservation

D/8 Private pensions

Annex I to Annex A, Part IV, D/8.

Remark: The reservation, which includes the activity of promotion, applies only to:

i) *cross-border provision of ~~pension~~ services, except if the ~~insurance policy~~ contract is taken out at the proposer's initiative and it is not a pension product or a service ~~offered by insurance companies~~ that is linked to the pension regime established by Decree Law 3500;*

ii) *the establishment of branches of pension funds in Chile; and*

iii) *the deductibility for tax purposes of contributions to pension funds purchased from non-residents.*

5. COMPLIANCE OF CHILEAN REGULATION AND SUPERVISION WITH OECD LEGAL INSTRUMENTS ON INSURANCE

In accordance with the Roadmap for the Accession of Chile to the OECD Convention, Chile's position in relation to the following insurance-related legal instruments should be assessed.

5.1. Instruments examined by IPPC

Key instruments which have specific policy implications requiring an assessment of the candidate country's position through a review by the IPPC and the subsidiary bodies concerned are:

- Recommendation of the Council on Guidelines for Insurers' Governance C(2005)45
- Recommendation of the Council on Assessment of Reinsurance Companies C(98)40
- Recommendation of the Council on Good Practices for Enhanced Risk Awareness and Education in Insurance Issues C(2008)22

5.1.1. Recommendation of the Council on Guidelines for Insurers' Governance

Chile accepts these Guidelines subject to a timeframe for implementation. The SVS are looking to implementation by the end of 2010. To fully comply with the Recommendation, the bill that is to be presented in congress and rules need to be issued by the SVS. In light of the difficulties of introducing the bill in congress this year, SVS is considering good practices that would implement most principles of the Recommendation during the second half of 2009.

Currently, there is a general issue with corporate governance of insurers. Supervisory guidelines on corporate governance needs to be developed, particularly with respect to internal controls and fit and proper requirements for senior managers within an organisation. A bill has been drafted that includes requirements for good governance within the insurance. When the bill has passed, it is likely that Chile will be able to comply with the Guideline more fully.[15]

Guideline 3 Functions and responsibilities

Chile states that it partially complies with Guideline 3 mainly in consideration of responsibilities that board members are required to follow do not coincide with those of the Recommendations. However, Guideline 3 is more concerned about the appropriate role of the board, good staff management, resolution of conflicts of interests, ensuring compliance, and monitoring governance practices, it would be useful for Chile to provide information on whether these aspects are considered in supervision and regulation of insurance companies, and whether industry associations might have standards for them.

Guideline 4 Composition and suitability

While the Guideline recommends that fit and proper standards are applied to board members, Chile does not seem to include such requirements in its regulatory requirements. Also, as Chile states, mechanisms to address the independence of board members may need to be contemplated.

[15] See section 2.3.5. Corporate governance for details on the reform planned in corporate governance.

Guideline 6 Actuary

As Chile states, they do not comply with the Guideline lacking requirements for actuaries and no clear role for them within the structure of insurance companies. This is due to be amended if the bill is passed.

Guideline 7 External auditors

Chile partially complies with the Guideline on external auditors. Chile is lacking in upholding strict qualification and fit and proper requirements for external auditors as well as assigning whistle blowing role to them.

Guideline 8 Internal controls

Chile lacks a clear guideline on internal controls which may be an issue which needs to be addressed to improve compliance with this guideline. It is one of main weaknesses that Chile has in its corporate governance for insurers.

Guideline 9 Reporting

Chile states that it does not comply with this Recommendation on reporting. There are no standardised reporting channels which have been developed individually by companies over the years. In terms of transparency, better definition of reporting requirements would be useful.

5.1.2. Recommendation of the Council on Assessment of Reinsurance Companies

Chile accepts the recommendations subject to a timeframe for their complete implementation by the end of 2009. The SVS is planning to issue rules and guidelines to insurers during the second half of 2009 to fully comply with the Recommendation. As part of the new rules that are planned, insurers will be required to assess the quality of reinsurance management, as part of the risk-based supervisory approach. The guidelines and assessment will take into consideration the OECD recommendation and be a strong incentive for insurance companies to comply with the recommendation of OECD.

The objective of the Recommendation is to encourage insurance companies to monitor reinsurance companies carefully leading to a better incentive structure within the industry.

5.1.3. Recommendation of the Council on Good Practices for Enhanced Risk Awareness and Education in Insurance Issues

Chile accepts this recommendation, and has been making efforts to promote enhanced risk awareness and financial education in insurance. However, the programs that have been rolled out so far in insurance have been geared towards raising awareness to insurance that has become compulsory, and not necessarily on the riskiness or benefits of insurance products.

Principle I Risk awareness and education on insurance issues: framework, definition and objectives

Chile does not have a general financial education programme or a specific one geared towards insurance. However, it does have programmes to promote risk awareness and education in specific policy areas. This includes a mass public education campaign about the terms and operation of Chile's compulsory insurance for personal accidents caused by land motor vehicles in May 2008. As part of this campaign, over two million leaflets were distributed to vehicle owners with the support of insurers while posters were displayed in stations of the Santiago subway, which also played a video on the subject.

It might be useful for SVS to consider risk awareness and education in its general policy with specific programmes in mind. Creating a comprehensive and coordinated programme will benefit society at large and become a framework for the overall educational provision.

Principle II Main stakeholders' responsibilities and roles

SVS has norms and instructions on how insurers should deal with clients and the general public. However, as Chile acknowledges there is no obligation to differentiate between quality and promotional information.

Principle III Programmes to raise risk awareness and strengthening education on insurance issues

Chile does assess risk factors in the insurance sector through surveys and complaints handled. However, it is not clear how the collected information is being used to improve the educational needs of the insured.

Chile has used mass media channels to raise awareness of certain risks and new insurance obligations, and has dedicated divisions in SVS to promote this.

5.2. Instruments assessed by the Secretariat

Instruments that are primarily of technical or operational nature, and for which the position of the candidate country will be assessed through a technical review by the Secretariat are:

- Recommendation of the Council on the Establishment of a Check-list of Criteria to Define Terrorism for the Purpose of Compensation C(2004)63/REV2
- Recommendation of the Council on Good Practices for Insurance Claim Management C(2004)62
- Recommendation of the Council concerning a Common Classification of the Classes of Insurance Recognised by the Supervisory Authorities of the Member Countries C(83)178
- Recommendation of the Council concerning Institutional Co-Operation between Authorities of Member Countries Responsible for Supervision of Private Insurance C(79)195

5.2.1. Recommendation of the Council on the Establishment of a Check-list of Criteria to Define Terrorism for the Purpose of Compensation

Chile accepts the recommendation. Chile does not have a formally-established definition or general framework on compensation for terrorism, either at the level of private insurance or government programmes. This partly reflects the fact that, by international standards, Chile is a relatively safe country as regards terrorist attacks.

Nevertheless, after September 11, 2001, local insurers started to include some provisions on terrorist damage in other coverage such as fire, motor vehicles and transport and shipping risks. However, in order to provide coverage against acts of terrorism, these clauses must be expressly included in insurance policies. This coverage uses factors similar to those in the insurance market in general.

Insurers are under no obligation to offer these clauses against damage arising from terrorism nor are clients obliged to acquire them. Chile does not have separate statistics on terrorism claims and these are currently included in statistics on other classes of insurance such as fire, earthquakes and natural hazards.

As SVS has implied its intentions to recommend to insurance companies the use of the Checklist, it may be beneficial if this is clearly stated by the Chilean authorities for instances when terrorism risk is covered in an insurance product.

5.2.2. Recommendation of the Council on Good Practices for Insurance Claim Management

Chile accepts the recommendation. While Chile complies with the overall framework of the Recommendation, some specific aspects could be addressed. The supervisory authority could play a greater role in improving the claim management procedure. Fraud prevention is not well addressed and could be improved with its inclusion in the supervisory framework.

Good practice 1 Claims reporting

While Chile has a clear policy of requiring insurance companies to use clear and simple language. Insurance companies are required to inform policyholders on claim reporting according to technical rules of the SVS.

Good practice 6 Claim processing

While Chile complies with compiling a claim settlement report with adequate information, there is no reference of a company's claims procedure, qualification of claim department's staff. Also, it is not clear what information needs to be provided to policyholders in the process.

Good practice 9 Supervision of claims-related services

The Assistance and Education to Insured Parties Division regularly analyses claims procedure through presentations received by SVS to make sure that insurers follows the rules.

Supervision of claims management could be improved to address all aspects of this Recommendation.

Good practice 10 Market practices

There is no information available of compensation of claim management staff. Chile publishes a quarterly Complaint Index Report which would address the complaint handling part of claims management. Extending the benchmarking to a wider aspect of claims management could improve the market practices

5.2.3. Recommendation of the Council concerning a Common Classification of the Classes of Insurance Recognised by the Supervisory Authorities of the Member Countries

Chile accepts the recommendation subject to a Declaration. The classification in the Recommendation is deemed to be too extensive for Chile's insurance market. However, Chile follows the gist of the Recommendation which is to ensure that insurance companies are licensed by class and only permitted to carry out operations in areas which it is expressly authorised. The limited classification may not be relevant in this case, as Chile would include new classifications when and if such products are developed in the insurance market.

5.2.4. Recommendation of the Council concerning Institutional Co-Operation between Authorities of Member Countries Responsible for Supervision of Private Insurance

Chile accepts the Recommendation. The SVS is obliged to provide assistance in the form of information related to the investigation of infractions of securities and insurance legislation as requested by a foreign regulatory and supervisory body or international organisations. Chile currently has exchanged MOUs with only five insurance supervisors, and would benefit from greater exchanges of MOUs with other insurance supervisors.

ANNEX

Investment diversification in instruments or assets for technical reserves and risk equity

1. Fixed Income investment	**Investment requirements**
a) Issued or guaranteed instruments up to their total maturity by the government, or issued by The Central Bank of Chile.	
b) Time deposits, mortgage backed securities, bonds and other credit or debt instruments, issued by banks or financial entities	10% and 20% of the total deposits and lending and of the total mortgage backed securities issued by a bank or financial institution
c) Bonds, promissory notes and other debt instruments issued by public or private institutions;	5% of the total, not registered in the Securities Registry of the SVS; or in the case that they are registered in it, they do not have risk rating according to Law Nº 18,045; or in the case they are rated as inferior to BBB or N-3 risk rating, given the case. Those instruments issued by domestic corporations established abroad within international risk rating equal or superior to BBB are exempted
d) Participation in credit contracts where two or more banks or financial institutions meet, in compliance with General Rules of the SVS, including as an obligation the credit risks of the debtor.	Between 3% and 5% of the total investment amount
e) Endorsable mortgage loans, as stated in Title V of D.F.L. Law Nº 251 of 1931.	30% of the total regarding instruments, and just 30 % of the risk equity in the case of the first group companies
f) Mutual contracts or money loans granted to natural or juristic persons, whether by the same company, by other companies, or by banks or financial institutions, which consist of instruments that have executive merit. The credits referred to by this letter may not be directly or indirectly granted to persons related to the company, according to the conditions defined in article 100 of Law N°18.045.	Between 1% and 5% of the total, according to what is established by the SVS by general norm. It is not possible to grant a credit to any one person, directly or indirectly, for a sum that exceeds 5% of the abovementioned limit. Even so, this concentration limit may not exceed the equivalent of 10,000 U.F. Without prejudice to the corresponding sanctions, the credits that exceed the limits set in this paragraph, will not be representative of technical reserves and risk equity.
2. Variable Income Investment	40% of the total investment amount in instruments stated in Nº 2
a) Shares of listed companies and shares of concession companies on public infrastructure	5% of the total which do not meet the prerequisite of stock exchange presence as stated by General Rule of the SVS
b) Mutual funds shares whose assets are invested on local securities or assets	
c) Investment funds shares, whose assets are invested on local securities or assets	10% of the total regarding those investment funds
3. Foreign investment	20% of the total amount in instruments stated in Nº 3

a) Credit or debt instruments, issued or guaranteed up to their total maturity by foreign governments or central banks	5% of the total, rated, according to the international risk rating, in a category inferior to BBB or N-3, in the case of long term instruments or short term instruments, respectively
b) Deposits, bonds, promissory notes, other debt instruments issued by foreign or international financial entities, companies or other corporations	
c) Shares of foreign companies	10% of the total amount of investment instruments
d) Mutual or investment funds shares established abroad	
e) Mutual or investment funds shares from abroad established in Chile, whose assets are invested in foreign securities	
f) Non-residential Real state located overseas	3% of the total
4. Non-residential Real state with a commercial appraisal carried out every two years, according to General Rule of the SVS	20% of the total in the case of the second group companies, and 30 % of the risk equity in the case of first group companies
5. Other assets	
a) Unexpired credit for undue premiums given to insurers, from insurance contracts including a cancellation for the non-payment of the premium, in order to guarantee the total unearned premium reserve	Up to 10% of the risk equity of the insurance companies of the first group
b) Receivable unexpired claims as a product of the cessions made to reinsurers in order to back up the total claims reserve	Up to 10% of the risk equity, excepting those claims from the cessions stated in Article 20 of the D.F.L. Law Nº 251, which cannot be discounted from the reserve.
c) Unexpired credit for premiums as a product of disability and survival insurance according to the Decree-Law Nº 3,500 of 1980, to back up the total claims reserve in the case of the companies pertaining to the second group	
d) Advanced payment to life insurance holders of their policies up to the amount of the surrender value of them, if in the policies it is explicitly stated that the loan shall be deductible of the indemnity amount payable, in compliance with what is stated in the policy or in attachments, if corresponds	
e) Loans granted to credit insurance policyholders, referred to in article 11	Up to the amount of the insured credit.
f) Unexpired credit for undue premiums given to ceding companies of the first group by virtue of reinsurance contracts, to back up to the total of the unearned premium reserve	
g) Unexpired credit for due premiums given to ceding companies of the first group by virtue of reinsurance contracts, to back up to the total of	

the claims reserves	
6. Derivatives	The maximum limit for investment stated by the SVS shall not be inferior to 0.5% nor superior to 3% of the technical reserves and risk equity of the companies
7. Other investments	Maximum amount of investment, which may not exceed 5% of technical reserves or of the companies' risk equity

Source: OECD Secretariat

- Joint limits

a) 25% of the total investment amount regarding those instruments stated in Nº 1 letters b) and c), rated in a category equal or inferior to BBB or N-3, in the case of long term instruments or short term instruments, respectively; or in the case of instruments stated in Nº 1 letter c) without risk rating;

b) Between 10% and 20% of the total investment amount in instruments stated in Nº 1 letters b), c) and d), and in Nº 2 letter a), in compliance with General Rule of the SVS, issued by joint stock companies, banks, financial institutions, and companies of the same business group. This limit shall be reduced to a half if the investor company belongs to the business group;

c) 10 % of the total investment amount in instruments stated in Nº 1 letters b), c) and d) and Nº 2 letter a), issued or guaranteed by the same entity or its subsidiaries. This limit shall be reduced to a half if the investor company belongs to the issuing business group;

d) 40 % of the total investment amount in instruments stated in Nº 1 letter e); investment funds in Nº 2 letter c); invested in assets stated in article 5th, Nº 10, 11, 12, 13 and 15 of Law 18,815; in real estate stated in Nº 4, and in bonds or promissory notes stated in Nº 1 letter c), issued by backing entities stated in Title XVIII of Law Nº 18,815, and backed by transferable credit instruments related to real estate, in the case of companies of the second group and just 50% of the risk equity in the case of the first group companies;

e) 5% of the total investment amount regarding those instruments stated in Nº 3 letters b) and c), issued and guaranteed by the same entity. This limit shall be reduced to a half when the issuer is related to the company;

f) 10% of the total investment amount regarding those instruments stated in Nº 2 letters b) and c) and Nº 3 letter e), issued and guaranteed by the same mutual fund or investment administrator entity;

g) 1% of the total, for the sum of the investment in instruments in letters c) of N°1 and a) and b) of N°3, included in letters a) and i) of N°1 of this article, as corresponds, issued by the same entity or its respective branches, and

h) 10% of the total, for the sum of the investment in the following instruments:

   i) Instruments in letter f) of N°1;

   ii) Instruments in letter a) of N°2, which do not meet the market presence requirement established by the SVS by general rule.

   iii) Instruments in numbers 6 and 7;

   iv) Instruments in letter c) of N°1 and a) and b) of N°3, included in letters a) and i) of N°1 of this article.