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# Use of the Chilean Peso in Cross-border Transactions

Legal Flash Chile

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From March 1 this year it will be easier to perform various new (mainly cross-border) transactions in Chilean pesos, which until now were not authorized by the Central Bank of Chile. Others have been authorized from September 1, 2021 onwards.



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## New Authorization of the Central Bank of Chile

Circular 988 of the Central Bank of Chile of December 29, 2020, notified the decision to authorize the following new transactions in Chilean pesos:

- a) Contracting derivatives whose settlement or payment provides for the physical delivery of pesos.
- b) Persons not domiciled or resident in Chile opening and holding bank accounts in pesos.
- c) Persons domiciled or resident in Chile granting loans to persons domiciled or resident abroad.
- d) Persons domiciled or resident in Chile performing deposit or investment transactions abroad.
- e) Persons not domiciled or resident in Chile granting or making loans, deposits, investments and contributions of capital in Chile.

The first three can be performed from March 1 and the last two from September 1.

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## Authorized cross-border transactions in Chilean pesos

A more detailed list of transactions which can be performed in pesos is set out below:

### 1. Issuance of Bonds by Foreign Institutions

Legal entities domiciled or resident abroad which meet the requirements established by the competent supervisory authority, in accordance with domestic securities market legislation, are authorized to issue and place in Chile bonds payable in pesos, denominated in that currency or in some readjustment system, as long as those issuers and the securities which they issue are registered in the Securities Registry kept by the Financial Market Commission (the "CMF").

The above also includes the purchase of bonds payable in pesos by persons domiciled or resident in Chile, who will only be subject to the obligation to inform the Central Bank of Chile.

The same authorization covers issuers that belong to foreign jurisdictions or states, and to international or supranational organizations, if they comply with the following criteria:

- a) Foreign jurisdictions or member states of the Financial Action Task Force (FATF) or of some equivalent regionally-based intergovernmental organization, aimed at combating money laundering and the financing of terrorism, such as GAFILAT (Financial Action Task



Force of Latin America) and GAFIC (Caribbean Financial Action Task Force), among others, and which are not considered as noncooperative countries or territories by those bodies and as long as they do not appear either on the list of “countries or territories considered as tax havens or harmful preferential tax regimes”, drawn up periodically by the Organization for Economic Cooperation and Development (OECD) (“Approved Jurisdictions”).

- b) States whose sovereign debt has at least three risk classifications issued by credit rating agencies registered at the CMF or internationally recognized credit rating agencies (among those which the Central Bank of Chile considers for the purposes of the investment of its own resources or other agencies which the CMF may decide).
- c) International or supranational organizations, in which at least two thirds of their member states comply, in full, with the provisions of points a) and b) above; and are not exempt from the requirement of registration of the relevant issuer, provided in relation to the CMF Securities Registry.

## 2. Transactions with Foreign Securities

Also authorized is the trading and payment in pesos of foreign securities capable of being publicly offered on the Chilean market. In particular, it refers to:

- a) Shares issued by foreign mutual funds or investment funds that are Exchange-Traded Funds (ETFs).
- b) Shares of foreign public limited companies.
- c) Security Deposit Certificates (CDV) representing any of the above-mentioned foreign securities, subject to the conditions and requirements indicated below:
  - › Those foreign securities must:
    - i) Have been placed on foreign or international securities markets;
    - ii) Be eligible for public offering on securities markets of the country of the issuer in question or on other international securities markets; and
    - iii) Be registered in the Foreign Securities Registry (RVE) of the CMF, and that registration must remain in force.

In the case of CDVs, the first two requirements apply to the foreign securities which those certificates represent.

- › This authorization covers issuers of foreign securities created in Approved Jurisdictions.



- › The above-mentioned foreign securities, to be traded and paid in pesos, must be traded and purchased on Chilean stock exchanges and must undergo intermediation by stockbrokers established in Chile.
- › The authorization is considered to be subject to the condition that those foreign securities remain in the custody of a private securities depository and custodian established in accordance with Chilean law. That custodian must inform the Central Bank of Chile of:
  - i) The international custody agreement(s) entered into with securities depositories abroad and under which it holds deposit accounts in which the foreign instruments which are traded on the Chilean market in pesos are safeguarded; and
  - ii) The variations, at an aggregate level, of the custody conducted in relation to those instruments.
- › The above-mentioned authorization is subject to the condition that the stock markets on which the foreign securities are traded inform the Central Bank of Chile monthly of the total volume of transactions performed in pesos in relation to those instruments.
- › Since the authorization is limited to the public offering of foreign securities in Chile which fulfill the above requirements and conditions, the trading and payment in pesos of foreign securities abroad, which are subsequently traded in Chile, is excluded. This exclusion applies, regardless of the mechanism or procedure through which such transactions occur abroad, including transfers ordered in relation to the deposit accounts in which those securities are kept, in Chile or abroad, due to transactions which do not involve a cash settlement.

### 3. New Authorized Transactions

#### a) Description of Transactions

From the above-mentioned dates onwards, the following transactions can be performed, granted and paid in pesos:

- › Contracting derivatives the settlement or payment of which provides for the physical delivery of pesos.
- › Persons not domiciled or resident in Chile opening and holding bank current accounts in pesos.



- › Persons domiciled or resident in Chile granting loans to persons domiciled or resident abroad.
- › Persons domiciled or resident in Chile performing deposit or investment transactions abroad.
- › Persons not domiciled or resident in Chile granting or making loans, deposits, investments or contributions of capital in Chile.

### b) Requirements

Any of the abovementioned transactions performed in pesos must comply with the following:

- › Be carried out through institutions which make up to the formal exchange market, (banks and other institutions or persons authorized by the Central Bank of Chile), unless they are performed by means of the withdrawal of funds kept in pesos abroad.
- › The parties must inform the Central Bank of Chile using the forms and reporting systems specifically indicated for these purposes in that institution's regulations.



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