

Legal innovations that foreign investors should consider

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During the course of this year Chile has enacted certain laws and regulations that foreign investors should certainly be aware of. These are Law No. 20,659 and its respective regulation, which introduces an expedited procedure to organise different types of companies and Generally Applicable Rule No. 346, which amends Generally Applicable Rule No. 30 that sets forth the procedure for the registration of listed companies and the issuance and public offer of stock and debt securities, as well as the reporting obligation with the Chilean Securities Registry of the Securities Exchange Commission (the SVS).

One-Day Company Law

Foreign investors that have conducted business in Chile should probably know that incorporating and amending a company in Chile requires the fulfilment of certain formalities that may take some time to implement. The most common formalities are those applicable to limited liability companies and corporations (*sociedades anónimas*) since these are the types of companies that are most commonly used for business purposes in Chile. These formalities basically consist of incorporating or amending a company by means of a public deed and then proceeding with the registration and publication of an abstract of such deed in the relevant Registry of Commerce and the Official Gazette, respectively.

On May 2 2013, Law No. 20,659 known as the 'One-Day Company Law' and its respective regulation came into effect. These new rules establish a new regime that mainly simplifies the incorporation, amendment, transformation, merger, split-up and dissolution of companies that have voluntarily decided to benefit from the One-Day Company Law. This regime permits the aforementioned corporate acts to be executed by the incorporator, partners or shareholders, as the case may be, by duly signing web forms using a digital signature and registering the corresponding acts in the new Registry of Companies and Corporations (the Registry), also created by the One-Day Company Law. All in all, with this law companies could be incorporated in one business day, since the Registry will simultaneously be connected with the Internal Revenue Service, which shall assign a taxpayer ID to the new company and then approve it to start-up operations.

Not only does this regime allow corporate acts to be perfected in a limited amount of time but also it has the advantage of being very cost-effective, since the web form and the registration process are completely free of charge. Basically the only expenses that would be involved in this process are those related with obtaining a digital signature, governed by law No. 19,799.

All types of companies, other than publicly held corporations, are entitled to voluntarily benefit from the One-Day Company Law and its respective regulation. Nevertheless, the regulation has established differed dates by which the respective type of companies may access and benefit from the One-Day Company Law, being the first ones to benefit from this law, the limited liability companies as from May 2 2013 (applicable for incorporation purposes only, since the existing limited liability companies governed by the general regime may only migrate to the simplified regime under the One-Day Company Law as from October 1 2013), and the last ones the closely held corporations (*sociedades anónimas cerradas*) as from June 1 2016.

Amendment to generally applicable Rule No. 30 of SVS

In early May, the SVS passed Generally Applicable Rule No. 346 (GAR 346), which modifies Generally Applicable Rule No. 30 (GAR 30), by replacing Sections I, II and III entirely, and introducing slight changes to Sections IV and V of said rule. GAR 30 is a key regulation of the SVS, Section I of GAR 30 (§I) sets forth the registration process of issuers of securities that are publicly traded, section II of GAR 30 (§II) establishes the on-going reporting obligations of entities registered in the Securities Registry of the SVS (the Securities Registry), section III of GAR 30 (§III) regulates the registration process of share issues and establishes certain communication rules and on-going information requirements related with the share issues, section IV regulates bond issuance and their respective registration in the Securities Registry and section V establishes certain rules applicable to the issuance of commercial papers (*efectos de comercio*).

The SVS stated that "the amendments to GAR 30 mainly refers to the information that must be provided by companies listed in the Securities Registry, clarifying certain reporting obligations of these entities, and it enhances the level of information that issuers have to deliver to the market in general". Also, "GAR 30 was updated in accordance with law No. 20,382 known as the Corporate Governance Law and the application of the International Financial Reporting Standards (IFRS) in the Chilean market", the SVS added.

Certain main innovations made by NCG 346 to NCG 30 may be summarised as follows:

(a) Revised NCG 30 provides more clarity regarding procedures and information requirements applicable to issuers listed in the Securities Registry. For instance, §I added a new provision establishing the cancellation process of the issuer and its securities in the Securities Registry.

(b) Another important change in NCG 30 is that now such rule expressly provides that the entity requesting its registration in the Securities Registry, must prepare its financial statements in accordance with IFRS, issued by the International Accounting Standard Board and comply with all of the requirements set forth in these rules.

(c) NCG 346 has abrogated, among other regulations also abrogated by this rule, Generally Applicable Rule No. 118, which used to regulate entities whose securities were registered in the market of the emerging companies regulated by the Stock Exchange, since these activities will now be fully regulated by NCG 30.

(d) In order to facilitate listed companies to comply with their on-going reporting obligations, NCG 346 now allows them to deliver certain documents and information, such as minutes of shareholder meetings and by-law amendments, through an Internet based system called SEIL.

These legal changes certainly go in hand with the technological resources that are available nowadays. Hopefully these types of laws will inspire our legislators to continue including technological improvements in other fields of our practice as well.

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