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DEVELOPMENTS REGARDING CHILEAN CAPITAL MARKETS

Chilean government recently enacted Law 20,448 ("MKIII"), which introduces several changes to Chilean capital markets aiming to encourage its liquidity, financial innovation and integration with international markets. This legal amendment is part of the continuous modernization process of Chilean capital market, which began with MK (1994), MKI (2001) and MKII (2007). The government has already announced that MKIII will be followed by MKB (Bicentennial), which is currently being discussed at different levels in the country.

MKIII will become effective on October 1, 2010, save for the changes to the Mutual Funds Act which will come into force once a revised Regulation on Mutual Funds is issued by the Minister of Finance.

• **Mutual Funds Act (DL 1,328):** Local exchange traded funds ("ETFs") are legally recognized for the first time in Chile. The amendment also broaden investment limits in high yield securities and grants the Chilean securities regulator ("SVS") the authority to allow Mutual Funds to invest in certain private financial instruments not previously included as eligible securities. Regarding derivatives, MKIII authorizes swaps and over the counter transactions, subject to compliance with the requirements of the SVS.

MKIII also allows funds' shares to be traded following the deposit with the SVS of the Fund's Reglamento Interno (by-laws), without the prior approval of the SVS as previously required.

• **Securities Market Act (Law 18,045):** Shelf registration of assetbacked securities is also authorized, permitting different issuances under the same program to be backed by assets held by a single vehicle, replacing the need to organize different SPVs for each issuance.

Also, the reform promotes the local trading of registered foreign securities by allowing their denomination in Chilean pesos.

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Such peso-denominated foreign securities may be payable in an authorized foreign currency or, with the prior approval of the Chilean Central Bank, in Chilean pesos.

• **Pension Funds System (DL 3,500):** Pension Funds may now invest in ETFs. Also, the new law authorizes the pension system regulator to approve other financial instruments, transactions and contracts as eligible investments, prior report of the Chilean Central Bank.

• **Foreign Capital Investment Funds Act (Law 18,657):** Period of time required to maintain in Chile the capital invested by a Foreign Venture Capital Investment Fund (FICER) prior to its repatriation is reduced from 5 to 3 years. FICERs may issue debt instruments and obtain local or foreign loans.

• **Law on Income Tax (DL 824):** In addition to the existing tax exemption on the sale or transfer of shares of local listed corporations, the MKIII also exempts capital gains obtained by foreign institutional investors on the sale or transfer of shares of local investment funds, mutual funds and ETFs, and debt instruments issued by the Chilean Central Bank, the Republic of Chile or local companies, provided certain conditions are met.

• **Banking Law (DFL No. 3):** Representative Offices of foreign banks are authorized to advertise in Chile the products or credit services offered by the parent company. Also, local banks are authorized to issue bonds to finance housing loans secured with mortgages (bonos hipotecarios).

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