

**International  
Comparative  
Legal Guides**



Practical cross-border insights into alternative investment funds work

**Alternative Investment Funds  
2022**

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## 1 Regulatory Framework

### 1.1 What legislation governs the establishment and operation of Alternative Investment Funds?

There is no specific regulation for Chilean Alternative Investment Funds ('AIFs'). Vehicles typically used in our jurisdiction as AIFs are regulated under Law No. 20,712 (the 'Funds Law'), its internal regulation (Decree No. 129) and, depending on the type of investor the fund is targeted at, Law Decree No. 3,500 (the 'Pension Fund Investment Regime') could also be applicable.

For the purposes of this chapter, we refer only to onshore structures and exclude requirements, licensing, and the registration process for foreign AIFs to be traded or marketed in Chile.

### 1.2 Are managers or advisers to Alternative Investment Funds required to be licensed, authorised or regulated by a regulatory body?

Public investment funds, *i.e.* local closed-ended investment funds with shares listed on a local stock exchange ('Public Funds'), and private investment funds, *i.e.* local closed-ended unlisted investment funds ('FIPs'), may be managed by so-called 'general funds managers' ('AGFs'), special corporations that require prior authorisation of the Chilean Financial Market Commission (*Comisión para el Mercado Financiero* or 'CMF') to be incorporated and to act as a fund manager. FIPs, however, can also be managed by an unregulated closely held corporation (a 'FIP Manager'), which does not require prior authorisation, and must only comply with certain reporting obligations in relation to the CMF.

Also, Law No. 21,314, which came into effect in April 2021, regulates investment advisory services, defined as the provision, by any means, of services or the offering of related products to the general public or to specific sectors, where such are related to investment in financial instruments of any kind. This regulation states that investment advisory may only be provided on an ongoing basis by (i) those registered in the registry that the CMF will keep for that purpose, and (ii) those entities that, according to article 3° of Law No. 21,314, are exempted from such registration (banks incorporated in Chile, insurance and reinsurance companies, intermediaries of publicly offered securities, fund managers authorised by law and portfolio managers supervised by the CMF). Pursuant to Law No. 21,314, the CMF

issued General Rule No. 472, which will enter into force as of 12 July 2022, and which states the requirements and procedures for registration, cancellation and suspension in the Register of Investment Advisors and the obligations to which such advisors will be subject.

Regarding investment advisory services, pursuant to General Regulation No. 412, certain key persons in AGFs, Chilean portfolio managers, placement agents and brokers (among others) need to pass an exam carried out by the stock exchange to evidence their technical knowledge.

Finally, if an entity consistently manages portfolios for more than 50 non-related entities for an amount of over 10,000 *Unidades de Fomento* (around US\$400,000) or manages over 500 portfolios, its shall be registered in the CMF and act according to the provisions of Title II of the Funds Law.

### 1.3 Are Alternative Investment Funds themselves required to be licensed, authorised or regulated by a regulatory body?

Funds in Chile do not have a separate legal personality. However, a fund constitutes a separate estate, a pool of assets different to the assets of the management company (the Chilean equivalent of the general partner ('GP')) and the assets of the individuals or entities that have a participation in it.

Public Funds are overseen by the CMF. Once the AGF's board of directors has passed a resolution approving the bylaws (*reglamento interno*) of the fund, the bylaws, along with other documentation established by CMF regulation, must be deposited in the CMF's 'Public Registry of Funds' Bylaws'. No specific authorisation is required, notwithstanding the CMF's authority to present its observations on the fund's legal documents if they do not fulfil the legal requirements.

FIPs are not subject to licences or authorisations.

### 1.4 Does the regulatory regime distinguish between open-ended and closed-ended Alternative Investment Funds (or otherwise differentiate between different types of funds or strategies (e.g. private equity vs hedge)) and, if so, how?

As mentioned above, the regulation distinguishes between mutual funds, Public Funds and FIPs, disregarding other types

of funds or their investment strategy or purpose (subclassifying Public Funds and FIPs into redeemable and non-redeemable).

The exception would be the Pension Fund Investment Regime, which classifies funds into several categories in order for them to be eligible for pension fund resources.

#### 1.5 What does the authorisation process involve for managers and, if applicable, Alternative Investment Funds, and how long does the process typically take?

See questions 1.3 and 1.4 above. Once the Public Fund's bylaws are registered in the CMF, the fund's shares may be placed and will be considered as publicly offered securities for all legal purposes, including marketing (see section 5 below).

#### 1.6 Are there local residence or other local qualification or substance requirements for managers and/or Alternative Investment Funds?

No; however, FIPs and Public Funds need a registered office or domicile in Chile (which is normally the management company's domicile) and books and records which are kept by the management company. Further, the residence of the contributors and the underlying assets may be of importance when analysing tax benefits and exemptions (see section 6 below).

#### 1.7 What service providers are required?

Other than the fund manager, the fund will need to have a custodian for the assets that are subject to custody. If the fund's bylaws allow it, it may outsource other kinds of services (such as back office or compliance), in which case it must also state who bears such expenses.

#### 1.8 What rules apply to foreign managers or advisers wishing to manage, advise, or otherwise operate funds domiciled in your jurisdiction?

As mentioned above, Chilean funds may only be managed by FIP Managers or AGFs, and thus foreign managers may not directly manage Chilean funds without incorporating or outsourcing a FIP Manager or AGF, as applicable, that fulfils the local requirements.

#### 1.9 What relevant co-operation or information sharing agreements have been entered into with other governments or regulators?

Chile has multiple co-operation and information-sharing agreements from tax, customs and regulatory standpoints. Notwithstanding that there is no agreement in place specifically for AIFs, the CMF is part of the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), among other bodies, and has multiple co-operation and information-sharing agreements in force with foreign regulatory entities (such as the US Securities and Exchange Commission), which can be found on the CMF's website.

## 2 Fund Structures

### 2.1 What are the principal legal structures used for Alternative Investment Funds (including reference where relevant to local asset holding companies)?

FIPs are different from Public Funds because (i) they are not subject to the CMF's supervision, and (ii) have fewer than 50 shareholders that are not 'members of the same family' ('members of the same family' is defined as those who maintain among them a certain degree of consanguinity or affinity relationship, and entities directly or indirectly controlled by each of those people).

### 2.2 Do any of the legal structures operate as an umbrella structure with several sub-funds, and if yes, is segregation of assets between the sub-funds a legally recognised feature of the structure?

Although it is legally possible to have a separate legal entity acting as an 'umbrella' (such as a stock company), it is not usual for a fund to have 'sub-funds'. Further, there are some legal restrictions that prevent fund to fund structures, such as (i) according to Article 88 of the Funds Law, FIPs cannot carry out transactions or operations with Public Funds, unless they are managed by unrelated companies, and (ii) according to Article 26 of Decree No. 129, an FIP may not invest in another FIP.

### 2.3 Please describe the limited liability of investors in respect of different legal structures and fund types (e.g. PE funds and LPACs).

In Chile, as a general rule, management companies and fund shareholders are not liable for the fund's obligations. Chilean law does not expressly permit the disregarding of the limited liability of the fund to reach its management company or shareholders. Moreover, the 'piercing of the corporate veil' theory has only been applied by courts in our jurisdiction with respect to corporations, and just in a few exceptional cases (cases of fraud or abuse of rights which have produced damages against a third party). However, since Chile is governed by civil law, such precedents are not binding for any court.

### 2.4 What are the principal legal structures used for managers and advisers of Alternative Investment Funds?

As stated in question 1.2 above, fund managers need to be incorporated as AGFs or FIP Managers.

AGFs are subject to the following special rules: (i) AGFs need to be organised as special corporations for the unique corporate purpose of managing third-party funds; (ii) AGFs are subject to the provisions that regulate public corporations and are supervised by the CMF; (iii) AGFs must include in their names the following phrase: '*Administradora General de Fondos*'; (iv) AGFs need to maintain a paid capital of at least 10,000 *Unidades de Fomento* (around US\$400,000); (v) AGFs have to issue a guarantee in favour of each of their managed funds to guarantee the fulfilment of their obligations; and (vi) after the lapse of one year starting from the granting of authorisation for incorporation, AGFs must manage at least one operating fund with an equity of at least 10,000 *Unidades de Fomento* (around US\$400,000) and have least one institutional investor or 50 shareholders.

### 2.5 Are there any limits on the manager's ability to restrict redemptions in open-ended funds or transfers in open-ended or closed-ended funds?

Funds are either structured as redeemable or non-redeemable. The regulation on redemptions must be included in detail in the fund's bylaws, differentiating between standard redemptions and redemptions of a sizable amount.

### 2.6 Are there any legislative restrictions on transfers of investors' interests in Alternative Investment Funds?

The Funds Law provides that no shareholder of the Public Fund that is not an institutional investor (such as banks) may directly or indirectly own more than 35% of the funds' shares after one year from the fund's incorporation.

Regarding FIPs, FIP Managers have a shareholding limit of 20% over the FIP's shareholding (which may be lowered to 10% in case the FIP has access to alternatives to Chilean Economic Development Agency (*Corporación de Fomento de la Producción* or 'CORFO') funding). Further, provided that no shareholder is an institutional investor, one year after the FIP has been incorporated it must have at least eight shareholders, each of them owning less than 20% of the FIP's shareholding (including related parties).

Finally, note that pension funds have specific limits on investment in Public Funds, which are thoroughly detailed in the Pension Fund Investment Regime and the Pension Fund Superintendence Compendium (which does not expressly authorise investment in FIPs).

### 2.7 Are there any other limitations on a manager's ability to manage its funds (e.g. diversification requirements, asset stripping rules)?

While General Rule No. 365 of the CMF sets forth the requirements of a Public Fund's bylaws (which contain an investment policy, liquidity policy, indebtedness policy and voting policy, among others), Chilean regulation does not impose specific limitations (other than the prohibitions stated in questions 4.1 and 4.2). However, if the AGF pursues the raising of capital from pension funds, additional restrictions may apply to accommodate the policies of the Pension Fund Investment Regime.

Note that FIPs may be subject to some additional requirements if they have obtained access to funding from the CORFO.

### 2.8 Does the fund remunerate investment managers through management/performance fees or by a combination of management fee and carried interest? In the case of carried interest, how is this typically structured?

Usually, funds consider a combination of management fee and carried interest. Fee structures vary depending on a series of variables (such as fund size, number of investors, GP, term of the investments). Management fees are calculated over net asset value, paid capital or other, and the carried interest may be structured as a 'fee' (subject to VAT, see question 6.2), or the GP may have an ownership percentage through a different series of shares and receive the carry as distribution (not subject to VAT), both of which are calculated in different ways (such as including an annual interest rate, among other adjustments).

## 3 Marketing

### 3.1 What legislation governs the production and use of marketing materials?

The offering of securities is governed mainly by Law No. 18,045 on the Securities Market, the Funds Law and certain general rules issued by the CMF.

There is no definition of 'private offering' in Chilean securities law; however, the CMF has established a safe harbour rule under current regulation through General Rule No. 336.

### 3.2 What are the key content requirements for marketing materials, whether due to legal requirements or customary practice?

The legal implications and key content of offering securities in Chile changes substantially depending on whether the offer itself qualifies as a 'public offering' or a 'private offering', the main difference between the two procedures being the requirement to register the securities with the CMF.

For public offerings, General Rule No. 365 of the CMF states that, prior to any investment, the AGF must make available to investors: the fund's bylaws; the share subscription agreement and the general share subscription agreement of the AGF (*contrato general de Fondos*), all of which must be in Spanish and in clear language; a copy of the portfolio and the financial statements sent to the CMF; and, in case of non-redeemable Public Funds, the AGF board of directors' meeting minutes agreeing the commercial conditions of the shares. Further, the AGF must provide investors with a copy of the investment brochure, which shall contain in clear language the essential information of the Public Fund that allows investors to understand the nature of the fund and its risks, allowing investor to make an informed decision (e.g. the fund's purpose, the targeted type of investor, historical revenues, among others).

Regarding private offerings, every communication must be in Spanish or English and shall express: (i) the date of commencement of the offering and that such offer is subject to the provisions of CMF General Rule No. 336; (ii) that the offering refers to securities that are not registered in the Securities Registry of the CMF and that they are not subject to the CMF's supervision; (iii) that the issuer is not obliged to deliver public information regarding such securities in Chile; and (iv) that such securities cannot be publicly offered while they are not properly registered.

Note that, pursuant to article 93 of the Funds Law, a FIP's shares may not be publicly offered, marketed, advertised, or registered with the CMF (unlike Public Funds' shares), so they must fulfil the process set out by General Rule No. 336, applicable to private offerings expressly stating that they are not regulated or overseen by the CMF.

### 3.3 Do the marketing or legal documents need to be registered with or approved by the local regulator?

For public offerings only, the securities must be previously registered with the CMF.

### 3.4 What restrictions (and if applicable, ongoing regulatory requirements) are there on marketing Alternative Investment Funds?

There are no additional requirements other than those stated above for the public or private offering of securities.

However, if such marketing is deemed to constitute investment advice, General Rule No. 472 of the CMF may also be applicable.

**3.5 Is the concept of “pre-marketing” (or equivalent) recognised in your jurisdiction? If so, how has it been defined (by law and/or practice)?**

Pre-marketing is not recognised in our jurisdiction.

**3.6 Can Alternative Investment Funds be marketed to retail investors (including any specific treatment for high-net-worth individuals or semi-professional or similar categories)?**

Yes, provided they are compliant with the requirements for public or private offerings. Shares of Public Funds may be offered through public offerings since the fund's shares are registered with the CMF. However, as stated in question 3.2, FIP shares may not be publicly offered.

In order for an offering not to be considered public, a series of requirements must be met (*e.g.* compliance with information and safeguard obligations; the offering must not be made through the mass media), and the offering must be directed only to qualified investors or up to 250 high-net-worth individuals or entities managed by qualified investors, or up to 50 non-qualified investors.

**3.7 What qualification requirements must be met in relation to prospective investors?**

There is no qualification requirement *per se*, but the offering mechanics and requirements differ for retail investors and ‘qualified investors’ (such as banks, financial companies, insurance and national reinsurance companies, fund managers, among others), especially for private offerings.

**3.8 Are there additional restrictions on marketing to public bodies such as government pension funds?**

The regulations of public bodies generally differ from each other. As mentioned above, marketing to pension funds is no different than any other ‘qualified investor’; however, they are subject to specific limits regarding investments per asset, per issuer, limits regarding commissions, among others.

**3.9 Are there any restrictions on the participation in Alternative Investments Funds by particular types of investors (whether as sponsors or investors)?**

No, provided that if the sponsors carry out regulated activities in Chile, they must be previously approved as such (*e.g.* securities brokers).

**3.10 Are there any restrictions on the use of intermediaries to assist in the fundraising process?**

The use of an intermediate to assist in fundraising is authorised, provided that if they act as stockbrokers or securities agents (*agente de valores*) they must be duly registered with the CMF and comply with their corresponding legal requirements.

Also, as mentioned in question 1.2, investment advisory services are subject to the provisions of Law No. 21,314 and General Rule No. 472 of the CMF.

## 4 Investments

**4.1 Are there any restrictions on the types of investment activities that can be performed by Alternative Investment Funds?**

Funds cannot directly develop commercial, industrial, real estate, mining, agricultural, exploration, exploitation, or extraction of assets of any kind, insurance, reinsurance or intermediation activities or any other business involving the direct development of an industrial, professional, commercial or construction activity by the fund and, in general, any activity directly developed by the fund other than investment or complementary activities.

Further, AIFs have specific restrictions regarding related-party transactions and investments in instruments issued or guaranteed by the fund manager or its related parties.

**4.2 Are there any limitations on the types of investments that can be included in an Alternative Investment Fund's portfolio, whether for diversification reasons or otherwise?**

Funds cannot directly invest in water rights, industrial or intellectual property rights, mining concessions, real estate, or vehicles of any kind.

Further, any investment carried out by Public Funds must comply with the basic information, regulation and oversight requirements set out in General Rule No. 376 of the CMF (*e.g.* that the jurisdiction of the investments must be a member of the GAFI-FATF (or an equivalent organisation)).

**4.3 Are there any local regulatory requirements which apply to investing in particular investments (e.g. derivatives or loans)?**

No, provided that they comply with the limits and requirements set forth in the funds' bylaws and the applicable corporate approvals.

**4.4 Are there any restrictions on borrowing by the Alternative Investment Fund?**

No, provided that they comply with the limits and requirements set forth in the funds' bylaws and the applicable corporate approvals (except for some very specific limits, such as that mutual funds may not own more than 25% of the debt of the State of Chile or another foreign state).

**4.5 Are there any restrictions on who holds the Alternative Investment Fund's assets?**

Yes, all assets eligible to be subject to custody must be held by a depository company registered with the CMF called the Central Securities Depository S.A. Foreign assets and assets which are not eligible to be subject to custody are subject to specific regulations (General Rule No. 235 of the CMF).

## 5 Disclosure of Information

**5.1 What disclosure must the Alternative Investment Fund or its manager make to prospective investors, investors, regulators or other parties, including on environmental, social and/or governance factors?**

**(a) Public Funds**

AGFs must disclose material information regarding themselves

and the Public Funds they manage (along with information about the main characteristics of the Public Funds and their series of shares) truthfully, sufficiently and promptly, to the Public Fund's shareholders and the public in general. Material information is such information that a person of good judgment would consider important for his/her investment decisions.

This information is delivered to the CMF and automatically posted on the CMF's website. Therefore, it is possible to check Public Funds' bylaws, financial statements, material information, shareholders' registry, etc. online.

Environmental, social and governance ('ESG') factors are a relatively new trend in Chile and only referred to in some secondary CMF legislation (General Rule Nos 386 and 461).

General Rule No. 386 requires companies to include in their annual reports information regarding diversity (gender, nationality, and age) at the board, management and organisational levels, as well as the gender pay gap. Further, General Rule No. 461 incorporates the obligation to report on ESG factors in all sections of the report, deepening the minimum information requirements, and requires corporations to report on their corporate governance practices in their annual report. In addition, the annual report must include a table of contents that expressly refers to the international reporting standards it has taken as a reference.

#### (b) FIPs

Although FIP Managers are entities that report to the CMF, they do not have an obligation to disclose information about the FIPs they manage to the public in general. The information they are compelled to send to the CMF is only related to: (i) the identification of the FIP and its shareholders; (ii) the value of the contributions made by the shareholders to the FIP; and (iii) the value of the FIP's assets. Additionally, the CMF may request further information to the management company in order to supervise compliance with the Funds Law in different matters.

**5.2 Are there any requirements to provide details of participants (whether owners, controllers or investors) in Alternative Investment Funds or managers established in your jurisdiction (including details of investors) to any local regulator or record-keeping agency, for example for the purposes of a public (or non-public) register of beneficial owners?**

Yes, AGFs, Public Funds and FIP Managers are registered in the Financial Analysis Unit (*Unidad de Análisis Financiero* or 'UAF'). The UAF is an autonomous governmental agency, seeking to prevent the misuse of the financial and other markets for money laundering and/or terrorism financing activities. The UAF is responsible for supervising compliance with the anti-money laundering and counter-terrorism financing ('AML/CTF') controls of the AML Act (Law No. 19,913) and the UAF General Instructions. Reporting Entities (including AGFs) are subject to regulation by the UAF in respect of their compliance with all such AML/CTF controls.

On 12 June 2017, the UAF issued General Instruction No. 57, imposing on 'Reporting Entities' (including, but not limited to, banks and financial institutions, representative offices of foreign banks, fund managers, brokerage firms, securities brokers, insurance companies) additional AML/CTF and Know Your Customer controls. Reporting Entities must identify, independently verify and record supporting evidence as to their clients' (legal entities) ultimate beneficial ownership.

**5.3 What are the reporting requirements to investors or regulators in relation to Alternative Investment Funds or their managers, including on environmental, social and/or governance factors?**

As detailed in question 5.1, AGFs must disclose material information regarding themselves and the Public Funds they manage (along with information about the main characteristics of the Public Funds and their series of shares) truthfully, sufficiently and promptly, to the Public Fund's shareholders and the public in general. Material information is such information that a person of good judgment would consider important for his/her investment decisions.

Further, as mentioned above, AGFs and FIP Managers are overseen by the UAF, and thus are subject to additional reporting obligations.

**5.4 Is the use of side letters restricted?**

No, provided that the legal documents of the fund itself contain the minimum requirements set forth by Chilean regulation.

## 6 Taxation

**6.1 What is the tax treatment of the principal forms of Alternative Investment Funds and local asset holding companies identified in question 2.1?**

Public Funds are an exception to the general tax regime since, among other benefits, they are not subject to corporate income tax ('CIT') on profits earned or accrued. Thus, taxation may be deferred until actual distribution is made to Public Fund investors in case they are the final taxpayers. FIPs are subject to the same taxation applicable to Public Funds.

**6.2 What is the tax treatment of the principal forms of investment manager/adviser identified in question 2.4?**

Management fees payable to both AGFs and FIP Managers are generally subject to a 19% Value Added Tax ('VAT'). However, the Funds Law establishes a VAT exemption for the part of the fee corresponding to non-resident shareholders.

Additionally, income derived from management fees or carried interests are subject to general taxation rules.

**6.3 Are there any establishment or transfer taxes levied in connection with an investor's participation in an Alternative Investment Fund or the transfer of the investor's interest?**

There are no significant establishment or transfer taxes related to investors' participation in an AIF.

**6.4 What is the local tax treatment of (a) resident, (b) non-resident, and (c) pension fund investors (or any other common investor type) in Alternative Investment Funds?**

Resident investors, either in Public Funds or FIPs, are subject to the following rules: (i) dividend distributions received by Chilean-resident individuals are subject to personal income tax (PIT) (which is applied on an annual basis, at progressive rates ranging from 0% to 40%), with a right to use 65% of the CIT paid over such funds (to the extent those were subject to CIT

at the level of the fund's portfolio companies) against the corresponding taxes. Dividend distributions received by corporate taxpayers (e.g. Chilean entities) are not subject to CIT; (ii) capital gains obtained from the sale or redemption of quotas are generally deemed as ordinary income subject to capital gains tax; and (iii) the proceeds obtained from a capital decrease or from the redemption of quotas upon the AIF's liquidation should be tax free, as long as they comply with specific imputation rules established in the Income Tax Law (generally, final taxpayers should not be taxed on the proceeds from the capital decrease or liquidation, unless the fund has taxable profits or financial book profits).

On the other hand, non-resident investors in Public Funds are subject to: (i) 10% sole-withholding tax ("WHT") on dividends distribution, without any credit for the CIT previously paid over such amounts (if any); (ii) 10% WHT on capital gains derived from the sale or redemption of quotas; and (iii) the same tax regime as residents on the proceeds obtained from capital decrease or redemption of quotas upon the AIF's liquidation, unless it has taxable profits or financial book profits, in which case they would be subject to the 10% WHT.

The 10% WHT applicable to dividend distribution and capital gains is not available to non-residents investors in FIPs, which in turn are subject to a 35% WHT with a tax credit for 65% of the CIT paid at the level of the FIPs portfolio companies, if any. Tax credit will not be available in case of capital gains, and in the case of dividend distribution it can be 100% of the CIT if the non-resident investor is resident in a country with which Chile has a valid treaty to avoid double taxation.

Lastly, if the investor is a Chilean pension fund, dividends distribution and capital gains obtained should not be subject to taxes.

Please refer to question 6.8 for more information on certain tax benefits related to AIFs.

**6.5 Is it necessary or advisable to obtain a tax ruling from the tax or regulatory authorities prior to establishing an Alternative Investment Fund or local asset holding company?**

It is not necessary to obtain a ruling from local tax authorities, neither with respect to the tax treatment of AIFs nor the local asset holding company.

**6.6 What steps have been or are being taken to implement the US Foreign Account and Tax Compliance Act 2010 (FATCA) and other similar information reporting regimes such as the OECD's Common Reporting Standard?**

Chile has signed an intergovernmental agreement with the United States within the scope of the FATCA (IGA Model 2), which is currently in force; and has also subscribed the OECD's Common Reporting Standard rules, which are also currently in force in the country.

**6.7 What steps have been or are being taken to implement the OECD's Action Plan on Base Erosion and Profit-Shifting (BEPS), in particular Actions 2 (hybrids/reverse hybrids/shell entities) (for example ATAD I, II and III), 6 (prevention of treaty abuse) (for example, the MLI), and 7 (permanent establishments), insofar as they affect Alternative Investment Funds' and local asset holding companies' operations?**

Chile has been active in implementing the BEPS recommendations. In this regard, it has already signed and deposited its

Instrument of Ratification, Acceptance or Approval of the MLI, which is currently in force. Furthermore, it has adopted the majority of the changes incorporated in the 2017 OECD Model Tax Convention in its tax treaties and has made changes to internal laws in line with the said recommendations.

**6.8 Are there any tax-advantaged asset classes or structures available? How widely are they deployed?**

Besides the 10% WHT to non-resident investors detailed in question 6.4, there are two main tax benefits related to AIFs:

- (i) A full tax exemption could be available on the capital gains derived from the disposal or redemption of quotas of a Public Fund or FIP, provided certain requirements related with where the quotas are disposed or redeemed, the investment policies of the funds bylaws, and the market presence of its quotas, are met. However, by virtue of the recently enacted Law No. 21,420, as from September 2022 this full tax exemption will be replaced by a 10% sole tax. Institutional investors (e.g., banks, insurance companies, etc.) will maintain the full tax exemption benefit.
- (ii) A full tax exemption could be available to non-resident investors in Public Funds or FIPs, in case 80% of the of the fund investment portfolio is composed by assets or securities located or emitted abroad, and other requirements established in the Funds Law are met. In this case, dividends distributed by the Public Fund or FIP to a non-resident investor and capital gains arising from the redemption of quotas should not be subject to withholding tax.

**6.9 Are there any other material tax issues for investors, managers, advisers or AIFs?**

There are no such material tax issues.

**6.10 Are there any meaningful tax changes anticipated in the coming 12 months other than as set out at question 6.6 above?**

The 'Growth and Equity Tax Commission', a group of tax experts summoned by the Ministry of Finance to review a series of tax exemptions in accordance with the suggestions made by the OECD and the FMI, has suggested the elimination of the 10% WHT benefit for non-resident investors on dividends distribution and capital gains related to Public Funds, and a review of the deferral benefits applicable to FIPs (*i.e.*, consider them as if they were corporations, subject to CIT).

The recently elected president, Gabriel Boric, is expected to present a tax reform proposal in mid-2022. According to the tax programme of the new government, it is expected that this proposal will aim to eliminate the deferral benefits applicable to FIPs.

## 7 Trends and Reforms

**7.1 What have been the main trends in the Alternative Investment Funds space in the last 12 months?**

Please see the answer to question 6.10 above.

**7.2 What reforms (if any) in the Alternative Investment Funds space are proposed?**

Please see the answer to question 6.10 above.



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