



OCTOBER 2020

Chile and Covid 19

The Corona / Covid 19 pandemic has affected nearly each of the industrial countries and the governments work hard to manage the situation in order to keep the development under control, as far as possible.

This allurisbriefing newsletter is intended to give a quick overview on the current situation in the countries of the Alluris member firms. The information is relevant for the moment when it was issued, but we know – and, dear readers, always keep in mind – that the economic and legal framework is much influenced by the current development and its impacts on countrywide health, social life, economy and the consequently its legal framework.

If you are planning certain activities or decisions please search legal advice from lawyers – our member firms are ready to support you.

1. Small and medium size business (pymes)

1.1 Subsidies

1.1.1 Reactivate program

This program seeks to support micro and small companies in any economic sector when their net sales are equal to or less than 25,000 UF¹ per year, which have seen their sales affected as a result of the health emergency, among other requirements, consisting on a non-refundable subsidy up to \$3,000,000.00 million pesos (around 3191.27 Euros approx.). If the company consider at least to invest 30% of this subsidy on digitalization, the amount will be elevated to \$4,000,000.00 pesos (4255.03 Euros approx.).²

¹ UF: Unidad de Fomento. Unit of account from Chile that remains constant but being adjusted according the levels of inflation. **1UF = 30.03 Euro** From October 17th 2020.

² Official website of the government. SERCOTEC (Technical cooperation services) gives these supports as a dependent of the Ministry of Economy, Development and Tourism in Chile.

<https://www.sercotec.cl/reactivate-con-sercotec/> 13.10.2020

1.1.2 Reactivate tourism program

The purpose of it is to support the tourism sector when their net sales in the period between March 2019 and February 2020 were between 200 and 25,000 UF per year and they were by at least 30% affected as a result of the pandemic. The subsidy is calculated by the annual net sales level: if they earned from 200 up to 600 UF a year, they may receive up to \$1,500,000.00 pesos (1595,64 Euros approx.), but if their net sales were between 600 and 25,000 UF, then they may receive a sum up to 3,000,000.00 pesos (3191.27 Euros approx.).³

1.1.3 Support projects for reactivation⁴

It is a subsidy created for companies or natural persons, which annual net sales are between 200 and 5,000 UF. If their resources are regional, they may also apply when their annual net sales are between 200 and 10,000 UF.

1.1.4 Startup for science

The government through CORFO promoted at May 25th incentives for natural persons over 18 years old, that have founded a company (micro or small) with no less than 5 years, that use at least one approved technology from lab. They may get up to 85% financing per project being 220,000.00 pesos the limit, and in case the company is led by women, a co-financing is up to 90%.⁵

1.2 Credits

1.2.1 Credit Corfo⁶

This credit it is available for natural or legal persons which sales do not exceed 100,000 UF. The financing is granted by non-banking financial intermediaries being reimburse up to 10 years, available for public limited companies, join stock companies, cooperatives, foundations, etc.

³ Official website of the government. SERCOTEC. <https://www.sercotec.cl/reactivate-turismo/> 13.10.2020

⁴ Official website of the government. Corfo (Production Development Corporation), dependent of the Ministry of Economy, Development and Tourism in Chile. https://www.corfo.cl/sites/cpp/convocatorias_coronavirus

⁵ Official website of the government. https://www.corfo.cl/sites/cpp/convocatorias/startup_ciencia

⁶ Official website of the government. https://www.corfo.cl/sites/cpp/convocatorias/credito_corfo_mipyme

1.2.2 State solidarity loan⁷

It was created to those who have faced because of the pandemic, a decrease of at least 30% in their income, allowing them to cover up to 70% with a limit of 650,000 pesos per month, three times, from August to December these year. Salaried employed and entrepreneurs can apply without interests and it must be paid back in four exhibitions.⁸

1.3 Warranties

1.3.1 Investment guarantee fund⁹

It is called “Guarantees for investment and working capital” (FOGAIN). This program does not direct finance a company but provides a percentage of warranty that financial entities will consider when they apply for a loan. This alternative is directed to private companies available to get a credit, or goods producer or service providers, when the micro, small or medium companies’ sales or investment projects in indigenous lands do not exceed 100,000 UF per year. Excluded are companies that were in default of their obligations 60 days from the last 12 months of the moment of application.

This diagram shows how much UF can be considered to give a warranty:

| Companies | Up to 60 months operations | Over 60 months operations |
|-----------|----------------------------|---------------------------|
| Micro | Up to 5,000 UF | Up to 5,000 UF |
| Small | Up to 7,000 UF | Up to 12,000 UF |
| Medium | Up to 9,000 UF | Up to 18,000 UF |

1.3.2 Bank loan coverage to exporters¹⁰

The so called “Foreign trade guarantees” are also not direct financing for the companies but a percentage of the warranty requested by financial entities when requesting a loan. It is designed for micro, small and medium sized companies, that direct or indirectly are related to foreign trade, when their sales do not exceed 100,000 UF per year and in case of exporting, up to 600,000 UF (or at least projected as such in both cases for emerging companies), considering indigenous lands without a limit.

⁷ Official website of the government.

http://www.sii.cl/destacados/medidas_clasemedia/index_prestamo.html

⁸ Official website of the government. http://www.sii.cl/destacados/medidas_clasemedia/prestamo-empresarios.pdf

⁹ Official website of the government. <https://www.corfo.cl/sites/cpp/convocatorias/movil/fogain>

¹⁰ Official website of the government. <https://www.corfo.cl/sites/cpp/convocatorias/movil/cobex>

| Companies | Amount to be guaranteed |
|-----------|-------------------------|
| Micro | Up to 5,000 UF |
| Small | Up to 7,000 UF |
| Medium | Up to 9,000 UF |
| Large | Up to 35,000 UF |

1.3.3 Small entrepreneur warranty fund^{11 12}

The Bank of the State of Chile¹³ as the only public bank since 1953, developed through the “Small entrepreneur warranty fund” a state fund created to guarantee a certain percentage of capital loans, leasing and others, which allowed interested to go to a list of financial institutions for this access with the decree-law no. 3472¹⁴ in the year 1980. A modification took place through the law no. 21.229 published on April 24th 2020 because of Covid19.¹⁵ This reform in their art. 3 considers two categories to have access to this support: to be exporters or entrepreneurs. The first category must not have annual net sales that exceed 16,700,000 million dollars. The second category it is defined by the Exempt decree no. 130 in their art. 4 which establishes four subcategories:

| Entrepreneurs | Annual net sales | Coverage limits ¹⁵ |
|---------------------------|-------------------------------------|--|
| Micro and small companies | Not exceeding 25,000 UF | Up to 85% of their balance due or up to 6,250 UF. |
| Medium companies | Between 25,000 UF and 100,000 UF | Up to 80% of their balance due or up to 25,000 UF |
| Large companies I | Between 100,000 UF and 600,000 UF | Up to 70% of their balance due or up to 150,000 UF |
| Large companies II | Between 600,000 UF and 1,000,000 UF | Up to 60% of their balance due or up to 250,000 UF |

Also art. 12 of the Exempt decree no. 130 precisely establishes the specific financing for companies

| Annual net sales up to: | Maximum financing limit |
|-------------------------|-------------------------|
| 1,000 UF | 250 UF |
| 10,000 UF | 2,500 UF |

¹¹ FOGAPE (Fondo de Garantía para Pequeños Empresarios).

¹² Official website of the government. <http://www.fogape.cl/sitio/que-es-fogape/>

¹³ BancoEstado

¹⁴ National Library from the Congress of Chile.

<https://www.bcn.cl/leychile/navegar?idNorma=7134&idParte=7130339>

¹⁵ Art. 13 from the Exempt decree no. 130.

| | |
|--------------|------------|
| 25,000 UF | 6,250 UF |
| 100,000 UF | 25,000 UF |
| 200,000 UF | 50,000 UF |
| 400,000 UF | 100,000 UF |
| 600,000 UF | 150,000 UF |
| 1,000,000 UF | 250,000 UF |

These resources may only be used to cover the company's working capital needs, including, payment of salaries and social security obligations, leases, leasing income, merchandise and supplies, invoices pending settlement, tax obligations, guarantee certificates, insurance expenses and any other expense that is essential for its operation.¹⁶ It is also prohibited to use the financing funds to amortize, pre-pay or refinance current or past-due credits at the time of the application, among others.¹⁶

This financing must be reimbursed between 24 and 48 months, with a minimum 6 months grace period for the first payment, among other requirements.¹⁷

2. Eviction

There was a pronouncement from the Supreme Court from Chile these year about a bill that pretended to regulate the concept of “Abusive rent”¹⁸ back in 2019. However, there was not a specific regulation from the Congress proposing a solution to the “non-payment” issue in Covid19 times, apart from a bill that advocates a prohibition for judges to not order the seizure of assets,¹⁹ prioritizing mediation. A specific change occurred in the judiciary: the law 21.226 in their art. 6 established that the period allowed for submission of evidence will remain suspended until 10 days expiration after the cease of the declared constitutional state of emergency²⁰, which means that no evictions orders can be fulfilled until today.

3. Labour law

The law 21.220 published on March 26th a regulation to the teleworking.²¹ An interesting add was the art. 152 J which states among other norms, the right of the

¹⁶ Ebd.

¹⁷ a.a.O. Art. 14a.

¹⁸ Official Bill: <https://www.camara.cl/verDoc.aspx?prmID=13873&prmTIPO=INICIATIVA>

¹⁹ Newspaper. Juan Manuel Ojeda. *La Tercera*. <https://www.latercera.com/nacional/noticia/pandemia-paraliza-las-demandas-de-arrendamientos-y-las-ordenes-de-desalojos/TRK744EQ3RDVVCIKIMBR2QTIKM/> August 18th 2020

²⁰ Official website of the government. Law 21226: <https://www.bcn.cl/leychile/navegar?idNorma=1144003>

²¹ Official website of the government. <https://www.bcn.cl/leychile/navegar?idNorma=1143741>

employer to remain disconnected from work office for at least 12 in a period of 24 hours. Also it is the obligation of their employer to provide the equipment for home-office.²² The report no. 1116/004²³ established measures that bosses and managers must follow, in order to protect their employees.

4. Restriction for companies

The President from Chile through the decree 104 back in March 18th these year²⁴ declared a “State of constitutional exception of catastrophe” (one of the four exceptional states) for 90 days, which means that he can restrict passages, rights of assembly, altering property rights and taking administrative measures.²⁵ There was a second²⁶ and now third time he extended this “state” on September 10th.²⁷

A relevant control was to establish the maximum price to pay for the rental of a mechanical ventilator per day up to 56,704 and to rent patient monitor per day up to 20,125 pesos. 28

5. Social prohibitions²⁹

The government has implemented a strategy, which is a system that considers five steps: (1) quarantine, (2) transition, (3) preparation, (4) initial opening and (5) advance opening. This steps consider the infection rate (R rate). Every time this rate changes, the specific area number will too.

(1) Quarantine: it is just allowed to attend bureaucratic procedures, going to work (if it is considered essential by the government) and shopping (twice a month with a governments permission), prohibition to go out from 23 until 5am in the morning (excepting medical emergencies or death of a direct family member). For adults over 75 years they can go out on Mondays, Thursdays and Saturdays just 60 minutes, not longer than 200 meter from home in specific hours a day. If the quarantine lasts

²² Official website of the government. <https://www.dt.gob.cl/portal/1628/w3-article-118457.html>

²³ Official website of the government. <https://www.dt.gob.cl/portal/1628/w3-article-118441.html>

²⁴ Official website of the government.

<https://www.bcn.cl/leychile/navegar?idNorma=1143580&idVersion=2020-10-15&idParte=10109338>

²⁵ Official website of the government.

<https://www.senado.cl/appsenado/index.php?mo=transparencia&ac=doctoInformeAsesoria&id=3911>

²⁶ Official website of the government. <https://www.carey.cl/download/filebase/newsalert/decreto-269.pdf>

²⁷ Official website of the government. [Gazette.](https://www.gazette.cl/)

<https://www.diariooficial.interior.gob.cl/publicaciones/2020/09/12/42755/01/1816236.pdf>

²⁸ Determination of the Health Ministry. <https://drive.google.com/file/d/1iVq0zhmmFW3EW-a00y3-v741oGqCNnp0/view> June 4th 2020.

²⁹ Official website of the government. <https://www.gob.cl/coronavirus/pasoapaso/>

more than 14 days, kids can just Tuesdays, Wednesdays and Fridays just 90 minutes with their parents walk outside one km from where they live.

- (2) Transition: (started on July 28th) it is allowed for people to go out and practice sports from Monday until Friday but not to a place that it is in stage 1 (quarantine), and also at the weekend with a government permission. The prohibition to go out from 23 until 5am remains with exceptions and going to work. Recreational and social gatherings are allowed up to 20 people in open spaces and 10 in closed areas, among others. Pharmacies and supermarkets remain opened. Specific stores are also opened.
- (3) Preparation: The prohibition to go out from 23 to 5am and not to visit an area declared in stage 1 (quarantine) remains. However everybody, included 75 years old people can go out to walk, work and other activities. Social activities are allowed until 50 people in opened spaces and 25 in closed areas. Gastronomy it is opened up to 25% of attendance or 2 meters distance between customers.
- (4) Initial opening: The two mentioned prohibitions continue. The number of participants of sport activities increase up to 10 people in closed spaces and 50 in open areas, and the number of people that can attend social activities are 100 in open spaces and 50 in closed areas. Gastronomy it is opened up to 50% of attendance or 2 meter distance between costumers. Theatres, cinemas can open up to 50% of their capacity with at least 1 meter distance without selling beverages or food. Gyms are also opened and their clients can only stay an hour. Schools can gradually open in this stage.
- (5) Advance opening: The two mentioned prohibitions continue but the number of people that can socially interact is up to 100 in closed areas and up to 200 in opened areas. Gastronomy it is opened up to 75% of attendance. Clubs can open up to 50% of their capacity, considering 100 people in closed areas and 200 in open spaces. Gyms opened up to 50% of their capacity.

6. Corruption

According to Transparency International (global organization against corruption) is Chile in the rank 26 from 198 countries with a score of 67/100 being 0 no corruption.³⁰

7. Health

³⁰ Transparency International. <https://www.transparency.org/en/cpi/2019/results/chl>

John Hopkins Institute says there are and 13,702 deaths and 494, 478 people infected by October 21st.³¹

8. Politics

The President of Chile, Sebastián Piñera, had serious problems with his popularity. Back in October 2019 there was a massive demonstration because of the increase of tariffs for the public service sector³² where the approvals he had were barely 10% of the citizens said García, and today his popularity increased until 22% because of his management of the pandemic. ³³Now the President organize in the middle of the pandemic, a plebiscite to decide whether the government create a new Constitution or not, because of his origins and cultural ties with the government of the dictator, the General Augusto Pinochet.

9. Global competitiveness report

Schwab Klaus, from the World Economic Forum wrote:

“Chile (70.5, 33rd) maintains a steady performance and leads the Latin America and Caribbean region. Chile can count on a stable macro-economic context (1st), thanks to low inflation (2.25%) and low public debt (25.56%), competitive and open markets (68.0, 10th) and a strong financial system (82.0, 21st). The next step towards an even stronger competitiveness performance is to enhance the skills base (69.8, 47th), increase the diffusion and the use of ICT at a faster rate (63.1, 56th) and improve innovation capability (42.5, 53rd). For instance, Chile would benefit from modernizing school curricula to match the requirements of the economy (59.7) and increasing R&D expenditure (0.36% of GDP, 74th) to boost patenting activity (score 30, 46th). Other competitiveness factors that could be improved include security, where homicide rates are still high with respect to other OECD economies (4.3 per person, 89th); insufficient use of ICT in the public-sector (82.0, 45th); and red tape (77th). Finally, as a regional leader, Chile should take a stronger stance on sustainability (45th), especially when it comes to energy efficiency regulation (59.0, 43rd).”³⁴

10. Perspective for the future

³¹ John Hopkins Institute. <https://coronavirus.jhu.edu/map.html>

³² Article. Blomberg, AFP and EFE. <https://www.eltiempo.com/mundo/latinoamerica/protestas-en-chile-a-un-ano-del-estadillo-social-544179> October 20th 2020

³³ Article. Víctor García. La Nación. <https://www.lanacion.com.ar/el-mundo/chile-pinera-busca-relanzar-su-imagen-mano-nid2485118>

³⁴ Article. SCHWAB, Klaus. The Global Competitiveness Report 2019. World Economic Forum. P. 15. http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf

The foreign direct investment between January and August 2020 reached \$10,161 million dollars, according to a provisional report of the Central Bank, which means an increase of 11% compared to the same period in 2019, being the equity participations, debt instruments and reinvested earnings the most popular ones among investors.³⁵

The International Monetary Fond anticipated a 6% contraction of the GDP compared to the previous -7.3% prediction.³⁶ In this regard was stated that one of the reasons of this recovery was the increase of copper prices up to 14.4% in the middle of the pandemic.

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³⁵ Article. Jaime Flores. La Tercera. <https://www.latercera.com/pulso/noticia/inversion-extranjera-en-chile-crece-11-hasta-agosto-y-alcanza-los-us10161-millones/2RQEONYTPJHMLFSSZC3NFUQZGE/> October 7th 2020.

³⁶ Article. Verónica Reyes. Biobiochile. <https://www.biobiochile.cl/noticias/economia/actualidad-economica/2020/10/13/fmi-mejora-la-proyeccion-para-chile-y-asegura-que-la-recesion-en-el-mundo-sera-mas-discreta.shtml> October 13th 2020.

³⁷ Article. Francisca Guerrero. La Tercera. <https://www.latercera.com/pulso/noticia/fmi-mejora-proyeccion-de-chile-en-mas-de-un-punto-y-estima-contraccion-de-6-para-2020/TMPBIL7JZNDSP6QFQ6NMWSVQQ/> October 13th 2020.

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Management :

ALLIURIS A.S.B.L.
 Luisenstr. 5
 D-30159 Hannover
 Fon ++49 511 30756-0
 Fax ++49 511 30756-10
 Mail info@alliuris.org
 Web www.alliuris.org