

Trade in Services

Original: Spanish

CHILE

Schedule of Specific Commitments

Supplement 3

(This is authentic in Spanish only)

This text replaces the financial services section contained in document GATS/SC/18/Suppl.1/Rev.1

CHILE

SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>Financial services sector:</p> <p>1.The Chilean financial services sector is partially compartmentalized, that is to say the institutions, domestic and foreign, authorized to operate as banks may not encroach on the insurance and securities business and vice versa. However, subject to authorization from the Banking and Financial Institutions Supervision Department, domestic and foreign banks operating in Chile may set up subsidiaries, with their own capital, to supply other financial services in addition to their main line of business. The main business of banks is accepting or receiving money from the public on a regular basis and granting money credits represented by securities or negotiable instruments or any other credit instrument.</p> <p>2.The subsectors and services included in this schedule are defined in accordance with the relevant Chilean legislation.</p>			
FINANCIAL SERVICES	(1), (2), (3) and (4) Unbound in respect of measures adopted or to be adopted by the Central Bank of Chile under its constitutive law (Law No. 18,840) or other legislation in order to ensure the stability of the currency and the normal operation of domestic and foreign payments. For this purpose the Bank is empowered to regulate the supply of money and credit, international credit and exchange operations, and to issue regulations governing money, credit, finance and international exchange.		
	Such measures include <i>inter alia</i> the establishment of restrictions or limitations on payments and transfers to or from Chile, as well as transactions relating to them, such as the requirement that		

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	<p>deposits, investments or credits coming from or going to a foreign country be subject to a reserve requirement.</p> <p>(3)In addition to the horizontal measures in Section I of Chile's Schedule of Commitments which affect all sectors, a supplier of financial services operating through a commercial presence may be subject to evidence of economic need. That is, he must obtain prior authorization to start up, suspend or terminate operations from the Banking and Financial Institutions Supervision Department (SBIF), in the case of banking services, or from the Securities and Insurance Supervision Department, in the case of securities and insurance services.</p>	<p>(3)Foreign investors who participate in the financial services sector may transfer their capital abroad two (2) years after bringing it in.</p>	

	<p>Authorization to supply financial services through a commercial presence will be given in so far as the applicant undertakes to ensure the proper functioning, integrity and stability of the market, fulfils the requirements of the law and serves the national interest.</p> <p>In addition, there may be non-discriminatory restrictions or provisions regarding the type of commercial presence that must be adopted by firms operating in the securities or insurance sectors in Chile.</p>		
<p>a. Banking services:</p> <p>1. <u>Core banking services:</u></p> <p>Acceptance of deposits (Includes only current bank accounts, sight acceptances, term acceptances, savings accounts, financial instruments with repurchase undertaking, and deposits for issue of bank guarantee vouchers.)</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) Foreign banking institutions must be companies legally constituted in their country of origin and must put up the capital required by Chilean law.</p>	<p>(1) Unbound</p> <p>(2) Unbound</p> <p>(3) None</p>	

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>Credit granting</p> <p>(Includes only current loans, loans in letters of credit, endorsable mortgage loans, purchase of financial instruments with resale undertaking, credit for issue of bank guarantee vouchers or other types of financing, issue and negotiation of letters of credit for imports and exports, issue and confirmation of stand-by letters of credit.)</p>	<p>Foreign banking institutions may only operate:</p> <p>(i) Through shareholdings in Chilean banks established as corporations;</p> <p>(ii) by becoming established as a corporation in Chile;</p> <p>(iii) as branches of foreign corporations, in which case the legal personality in the country of origin is recognized. For the purposes of foreign bank branch operations in Chile, the capital effectively invested in Chile is considered, and not that of the parent house.</p> <p>Prior authorization from the SBIF is required for the modification or transformation of the type of commercial presence of a foreign bank operating in Chile.</p>		
<p>Purchase of publicly-offered securities (includes only purchase of bonds and purchase of letters of credit, subscription and</p>	<p>No national or foreign natural or legal person may acquire directly or through third parties shares in a bank which, alone or added to the shares such a person already possesses, represent more than 10 per cent of the bank's capital without having first</p>		

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>placement as agents, underwriting)</p> <p>Issue and operation of credit cards (81133) (only includes credit cards issued in Chile)</p> <p>Discounting or acquisition of bills of exchange and promissory notes</p> <p>Endorsement and guarantee of third party liabilities in Chilean currency</p> <p>Securities custody</p>	<p>obtained the authorization of the SBIF. In addition, the partners or shareholders of a financial institution may not transfer a percentage of rights or shares in the company in excess of 10 per cent without having obtained authorization from the SBIF.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(4)Unbound, except as indicated in the horizontal section.</p>	

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>a.2.<u>Complementary banking services</u></p> <p>Financial leasing (81120) (these companies may offer leasing contracts for goods acquired at the client's request, i.e. they cannot acquire goods in order to stock them and offer them for leasing)</p>	<p>(1) Unbound</p> <p>(2)Unbound</p> <p>(3)In addition to the conditions specified above, only domestic and foreign banking enterprises established in Chile can provide financial leasing services. In order to supply financial leasing services, they must establish subsidiaries with their own separate legal personality, their own capital and exclusive line of business, subject to prior authorization from the SBIF.</p> <p>Financial leasing services are regarded as complementary banking services and, consequently, the SBIF is empowered to extend or restrict the operation of the financial leasing services which the institutions may offer, and the latter may only offer the services expressly authorized by the SBIF.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
<p>Advisory and other auxiliary financial</p>	<p>(1)Unbound</p>	<p>(1)Unbound</p>	

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
services (8133) (includes only services indicated in the banking sector in this schedule)	(2)Unbound (3)In addition to the conditions specified above, in Chile advisory and other auxiliary financial services are regarded as complementary to the services which the established banks can provide. Consequently, domestic and foreign banks must set up subsidiaries with their own capital in order to be able to provide these services and must obtain the appropriate authorization from the SBIF. (4)Unbound, except as indicated in the horizontal section.	(2)Unbound (3)None (4)Unbound, except as indicated in the horizontal section.	

(b) Insurance and reinsurance services

1. In Chile, the insurance business is divided into two groups: the first group comprises companies that ensure goods and property against the risk of loss or damage, while the second comprises those that provide personal insurance or guarantee, within or at the end of a certain term, a capital sum, a paid-up policy or an income for the insured or his beneficiaries. The same insurance company may not be constituted in such a way as to cover both categories of risk.
2. Credit insurance companies, even though classified in the first group, must be established as corporations with the sole purpose of covering this type of risk, i.e. loss of or damage to the property of the insured as a result of the non-payment of a money debt or loan, being also permitted to cover guarantee and fidelity risks.
3. The Chilean insurance schedule does not include insurance related to the social security system.

Insurance:			
Sale of direct life insurance (does not include insurance related to the social security system) (81211)	(1)Unbound (2)Unbound	(1)Unbound (2)Unbound	

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>Sale of direct general insurance (8129, except for 81299) (excluding social security institutions (ISAPRES) i.e. legal persons set up for the purpose of providing health benefits to persons who opt to become members and financed through the statutory contribution of a percentage of taxable income fixed by law or a higher amount, as the case may be. It also excludes the National Health Fund (FONASA), a public service financed by the government and the statutory contribution of a percentage of taxable income fixed by law, which is jointly responsible for paying benefits under the optional health scheme which persons not members of an ISAPRE may join)</p>	<p>(3)Insurance services can be provided only by insurance corporations established in Chile for the exclusive purpose of developing this line of business, either direct life insurance or direct general insurance. In the case of general credit insurance (81296), they must be established as insurance corporations with the exclusive purpose of covering this type of risk. Insurance corporations can be legally constituted only in accordance with the provisions of the law on corporations. Insurance may be taken out directly or through insurance brokers who, to engage in that activity, must be enrolled in the Register maintained by the Securities and Insurance Supervision Department (SVS) and must satisfy the requirements of the law.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
<p>Insurance brokers (81401)</p>	<p>(1)Unbound</p>	<p>(1)Unbound</p>	

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Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
Reinsurance and retrocession (including reinsurance brokers)	<p>(2)Unbound</p> <p>(3)Must be enrolled in the Register maintained by the Securities and Insurance Supervision Department (SVS) and fulfil the requirements laid down by the SVS. Only legal persons legally constituted in Chile for this specific purpose may provide this service.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p> <p>(1)Foreign reinsurance companies and foreign reinsurance brokers must be enrolled in the register of foreign reinsurers maintained by the SVS and fulfil the requirements laid down by the SVS.</p>	<p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p> <p>(1)Premiums ceded under this heading are subject to a tax of 6 per cent</p>	

	<p>(2)Unbound</p> <p>(3)Reinsurance services are provided by reinsurance corporations established in Chile in accordance with the provisions of the law on corporations and authorized by the SVS. Corporations may also provide reinsurance services as a complement to their insurance business if their articles of association so allow.</p> <p>Reinsurance services may also be provided by foreign reinsurers and foreign reinsurance brokers enrolled in the Register maintained by the SVS.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
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(c)Securities services:

1.Publicly offered

securities may be traded by legal persons whose specific purpose is securities brokerage, either as members of a stock exchange (stockbrokers) or outside the exchange (securities agents), and these institutions must be registered with the Securities and Insurance Supervision Department (SVS). However, only stockbrokers may trade shares or derivatives (subscription options) on the stock exchange. Non-share securities may be traded by stockbrokers or securities agents registered with the SVS.

2.The purpose of financial portfolio management is to diversify

investments, on behalf of third parties, over a range of instruments and may be provided by securities traders (stockbrokers and securities agents) as a complementary activity for their clients.

3. Publicly offered securities risk rating services are provided by rating agencies constituted for the sole purpose of rating publicly offered securities, and they must be enrolled in the Register of Risk Rating Agencies maintained by the SVS. They are inspected and controlled by the above-mentioned Supervision Department. On the other hand, the inspection of rating agencies with respect to the rating of securities issued by banks and finance companies is

the responsibility of
the Banks and
Financial
Institutions
Supervision
Department (SBIF).

4. Securities custody
consists of the
physical safe-
keeping of stocks
and shares and may
be undertaken by
securities
intermediaries
(stockbrokers and
securities agents) as
an activity
complementary to
their sole purpose.
The Chilean
schedule in the
securities sector
does not include the
services offered by
firms which
simultaneously
undertake the
custody, clearance
and settlement of
securities
(centralized
securities
depositories).

5. Financial advisory
services, which
involve giving
financial advice on

financing alternatives, investment appraisal, investment possibilities, and debt rescheduling strategies may be undertaken by securities intermediaries (stockbrokers and securities agents) as an activity complementary to their sole purpose.

6. Securities services that may be provided by banking institutions either directly or through subsidiaries are listed in the banking services sector of this Schedule and are excluded from the securities services section of this schedule.

Modes of supply: (1) Cross-border supply(2) Consumption abroad(3) Commercial presence(4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p>Intermediation of publicly offered securities, except shares (81321) (includes subscription and placement as agents, underwriting)</p>	<p>(1)Unbound (2)Unbound (3)Brokerage activities must be provided through a corporation established in Chile and require prior enrolment in the Register of stockbrokers and securities agents kept by the SVS. In addition to the legal requirement concerning assets, the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply. (4)Unbound, except as indicated in the horizontal section.</p>	<p>(1)Unbound (2)Unbound (3)None (4)Unbound, except as indicated in the horizontal section.</p>	
<p>Intermediation of publicly offered shares in corporations (81321) (includes subscription and placement as agents, underwriting)</p>	<p>(1)Unbound (2)Unbound (3)In order to trade on the stock exchange, intermediaries (brokers) must be constituted as corporations in Chile. They must acquire a share in their respective stock exchange</p>	<p>(1)Unbound (2)Unbound (3)None</p>	

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	<p>and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning assets, the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(4)Unbound, except as indicated in the horizontal section.</p>	

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Securities risk rating (relates solely to rating or giving an opinion on publicly offered securities)	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)They must be established in Chile as a company of persons. One of the specific requirements to be fulfilled is that not less than 60 per cent of the company's capital must be held by the principal partners (natural or legal persons in this line of business holding a minimum of 5 per cent of the membership rights in the rating agency). They must be enrolled in the SVS Register of Risk Rating Agencies, and the rating board must consist of professionals with a university degree or equivalent higher education and an unblemished business record, the majority of whom must have had at least three years' work experience in the economic and financial field.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
Securities custody undertaken by securities intermediaries (81319) (does not include the services offered by suppliers who combine	<p>(1)Unbound</p> <p>(2)Unbound</p>	<p>(1)Unbound</p> <p>(2)Unbound</p>	

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custody with securities clearance and settlement (custodial accounts)).	<p>(3)In order to undertake securities custody, the intermediaries (brokers) must be constituted as corporations in Chile. In addition to the legal requirement concerning assets, the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
<p>Financial advisory services provided by securities intermediaries (81332) (the financial advice refers only to the securities services included in this Schedule)</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)Financial advisory services provided by securities intermediaries established as corporations in Chile require prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS. In addition to the legal requirement concerning assets, the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)None</p>	

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	<p>the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(4)Unbound, except as indicated in the horizontal section.</p>	

<p>Financial portfolio management by security intermediaries</p> <p>(This does not under any circumstances include the following: management of mutual funds, foreign capital investment funds, investment funds or pension funds.)</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)Portfolio management services provided by security intermediaries established as corporations in Chile require prior enrolment in the Register of stockbrokers and securities agents kept by the SVS. In addition to the legal requirement concerning assets, the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(1)Unbound</p> <p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
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<p>General deposit warehouses (warrants)</p> <p>(Corresponds to merchandise warehousing services accompanied by the issue of a deposit certificate and a chattel mortgage receipt.)</p>	<p>(1)Unbound*</p> <p>(2)Unbound</p> <p>(3)Only natural or legal persons legally established in Chile who have the provision of warrant services as their sole business.</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	<p>(1)Unbound*</p> <p>(2)Unbound</p> <p>(3)None</p> <p>(4)Unbound, except as indicated in the horizontal section.</p>	
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*Unbound because not technically feasible.