

Snapshot: considerations for Chilean pension funds investing in offshore funds

Insights - 06/10/2022

Under Chilean regulation, pension funds established in Chile that invest in an offshore fund must obtain certain legal confirmations from legal counsel in the jurisdiction where the offshore fund is located before they are able to invest in that fund.

What's needed?

Broadly speaking, the Chilean regulations require a pension fund (AFP) to obtain confirmations covering the following items:

Working through complexity

Given that the AFPs are often looking to invest in funds managed by some of the world's largest fund managers (eg Blackstone, HPS, PIMCO), the fund documentation tends to be extremely detailed and complex and therefore requires a thorough review in order to extract the relevant information to be able to give the required confirmations to the AFP.

In some circumstances, there can be time-pressure to obtain the confirmations in order to meet the investment closing deadline. Our extensive investment funds practice ensures that we are always on-hand to be able to turn this type of instruction around on short notice (which, given the length and technical nature of most fund documentation, can be a tall ask).

The end result is:

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How we can help

With our outstanding level of expertise in investment funds work, we are able to carry out a thorough review of the target fund's relevant documentation and prepare the required confirmatory documentation.

This comprises of the following:

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As Ogier itself acts as fund counsel on a number of different types of fund structures (eg hedge funds and private equity funds) and has been practising in the funds space for more than 30 years, we are well-placed to be able to provide the confirmations required and have excellent insight into current market practices.

Additionally, over the past seven years, we have advised each of the AFPs on their investments in offshore funds, with Chilean distributors that distribute offshore funds to the AFPs, and to Chilean law firms that provide assistance to the AFPs in their investment process (which generally also

involves the negotiation of side letters) and we have accordingly developed a full understanding of their requirements. With this experience we have been able to improve our processes and documentation to align them with the requirements of the regulation and regulator in Chile and improve their effectiveness for the AFPs.

Finally, we are present in all major investment fund jurisdictions of British Virgin Islands, Cayman Islands, Guernsey, Ireland, Jersey, and Luxembourg and have assisted AFPs in their investments in each of these jurisdictions.

Ogier's Latin America team

Ogier's multi-disciplinary Latin America team is ranked highly recommended by the Latin Lawyer 250 guide 2023, with six of our partners singled out for recognition.

Latin Lawyer also recognises that our presence in Latin America is one of the most established in the region. Our team of Cayman, BVI, and Luxembourg qualified lawyers have a long track record of working with clients in the region, including some of Latin America's key banking institutions and most prominent asset managers, as well as leading corporates, ultra high net worth individuals, and family offices.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

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