CLIENT ALERT

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GOLDENBERG, LAGOS & SILVA
Abogados

November 2008

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SVS AND PROTECTION OF THE INFORMATION IN THE CHILEAN SECURITIES MARKET

SVS's New Rules on Transparency

Chile's law recognizes the value of the information and protects it by means of the establishment of duties of reserve and the prohibition to use *privileged information* (any information regarding the issuer of securities, its business or instruments which has not been disclosed to the market and the knowledge of which is capable of having influence in the quotation of such instrument). The law requires from the issuer of publicly traded securities to disclose any *essential information* (that which a prudent person would consider material for his decisions regarding investment) in respect of the issuer itself, the securities offered, or the offer, and regulates the *reserved information*, that is the one referred to certain facts or acts that the Board of Directors, with a special quorum, may refrain from disclosing to the public for a transitory period.

In an additional step toward the protection of the transparent disclosing of the information to the market, on January 14, 2008, the Superintendency of Securities and Insurance (SVS) issued General Rules No. 210 and No. 211. Such rules introduced for the first time in our legal order the concept of *Information of Interest.*

The Information of Interest is the one that, even though it does not have the character of essential fact or information, is notwithstanding useful for an adequate financial analysis of the entities, their securities, or the offer of same. Since it does not constitute relevant information, the SVS does not require that this information be communicated to the market. Notwithstanding this, the SVS does establish that once such information becomes known, its disclosure must be made to the market either simultaneously or within the shortest possible time (it is understood that it is simultaneously communicated to the market when it is published in a visible place of its web site). This information of interest must be regulated in a Manual of Information of Interest for the Market to be prepared by the issuer.

The SVS has also included indicative periods of blocking or temporary transaction prohibitions on dates close to the disclosing of financial statements or during certain specific circumstances (merger or taking of control negotiations). While not mandatory, with these indications the SVS pretends that issuers, directors, officers, and other actors self regulate these conflicting matters.

Penalties imposed by the SVS for the use of Privileged Information

On July 15, 2008 the SVS imposed certain penalties for the use of privileged information, related to the aborted merger of two of the largest retail operators in the Chilean market, Falabella and D&S.

The imposition of these penalties is a clear indication that the SVS has assumed a far more active role in connection with its supervisory functions. On the other hand, these penalties have the following unprecedented characteristics:

a) One of the penalties is established in respect of the non-compliance with the duty of reserve. Historically, the SVS had sanctioned only those persons that, having had access to privileged information, had used it for their own benefit. However, this time the SVS also penalized persons that, not having taken personal advantage of the privileged information, had transmitted it to third parties that did use it in their own benefit.

b) Use of presumptions. The penalties imposed for the non-compliance with the duty of reserve are founded almost exclusively in presumptions based in personal or kinship relationships.

c) It is the first time that a penalty is imposed on an advisor of one of the issuers involved in the transaction (sanction to a communicational advisor).

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