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Regulatory Barriers to the Rise of Microinsurance in Chile: An Exploratory Study*

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Introduction

1. In order to have a deeper understanding of the micro-insurance market and regulation in Chile, an exploratory study was carried out in 2015 with the support of PC about the possibilities of promoting the design and improvement of insurance products adapted to low income populations, within the framework of the Estrategia Nacional de Inclusión Financiera (National Strategy for Financial Inclusion, in English) and as a complementary tool for social protection.

Microinsurances as defined by Craig Churchill, are the protection of low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood and risk of cost involved.[2] In this context the question

* The complete document is available at the Capital Project: <www.proyectocapital.org>.

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2 Craig Churchill, *What is insurance for the poor?*, in: Craig Churchill (ed.), *Protecting the Poor: a Microinsurance Compendium*, 2006, p. 12. Since the distinctive feature of microinsurance as opposed to traditional in-

has been raised why in Chile, compared to other Latin American countries, a microinsurance market never really got off the ground.

2. Since insurance is a public good, a risk management tool necessary for a stable financial system, it is highly regulated.[3] Each jurisdiction naturally has its own insurance regulation due to its particular political, economic, social, cultural and geographical features. Chile is considerated one of the most politically and economically stable countries in Latin America. Worldbank development data indicate that Chile, as a member of the Organisation for Economic Co-operation and Development (OECD), must be considered as a high income country.[4] The Worldbank´s poverty headcount ratio for Chile shows a significant decline in poverty rates, from 29.1% of the total population in 2006 to 14.4% in 2013. The current total population of Chile is 17.8 million, which comes down to 2.6 million people living in poverty. Of course, statistics are always misleading to a certain extent, depending on how poverty is to be defined and who is defining it.

3. Chilean insurance regulation reflects the scarcity of microinsurance products in Chile, since it does not make any reference whatsoever to insurance contracts involving low-income people.[5] Neither have Chilean policymakers instructed their insurance supervisor, *La Superintendencia de Valores y Seguros (SVS)*[6], to take a more proactive role on the matter. This is not surprising, because micro-insurance has no significant impact on the financial system of Chile. The SVS is likely under pressure to focus on supervising commercial operations that are a greater threat to the stability of the financial system, instead of supervising microinsurance schemes that may require an entirely different supervisory approach.[7] Not to mention the extra resources and manpower needed for such an endeavour.

4. The aim of this explorative study is to touch briefly on certain provisions in Chilean insurance law that hamper the diversity of microinsurance providers in Chile, and *a fortiori* the rise of microinsurance in the country.[8] The study does not purport to propose a set of special provisions or a complete regulatory framework for

surance is the clearly prescribed low-income market, microinsurance products are characterized by modest coverage with a low premium and short coverage period. Demand research shows that life and health insurance are the most desired products among low-income people (see Churchill, *op. cit*., p. 1).

3 The legal basis for interference of the State in the economic activities of individuals or legal entities in the country by market regulation can be found in Article 19, Section 21, of the Chilean Constitution of 1980 (*Constitución Política de la República de Chile*).

4 http://data.worldbank.org/country/chile

5 Mexico, Peru and Brazil have a special and detailed regulatory framework for microinsurance. See e.g. Luz Andrea Camargo & Luisa Fernanda Montoya, *Microseguros: Análisis de experiencias destacables en Latinoamérica y el Caribe*, FIDES y BID/FOMIN, 2013, Chapter 6.

6 SVS has its own statute under Law Number 3.538 of 1980 (*Ley Orgánica de la Superintendencia de Valores y Seguros*), modified by Law Number 20.345 of 6 June 2009 (*Ley N.° 20.345*).

7 See e.g. Martina Wiedmaier-Pfister and Arup Chatterjee, *An Enabling Regulatory Environment for Microinsurance*, in: Craig Churchill (ed.), *supra* note 2, p. 493. The Chilean supervisor (SVS) has extensive regulatory powers, but is – as in most Latin American and (former) developing countries – considerably influenced by the President of the Republic. This creates a false sense of autonomy of the supervisor. See e.g. José Francisco García G. & Sergio Verdugo R, *De las superintendencias a las agencias regulatorias independientes en Chile: Aspectos constitucionales y de diseño regulatorio*, Revista Actualidad Jurídica, N.° 22, Julio 2010 (Universidad de Desarrollo), pp. 263 ff.

8 This diversity is also proclaimed and encouraged by the G-20 Principles for innovative financial inclusion (2010). See e.g. Susanne Soederberg, *The Transnational Regulation of Financial Inclusion, An Historical Materialist Critique of the G20 Principles*, in: Tony Porter, *Transnational Financial Regulation after the Crisis*, 2014, p. 96.

microinsurance, simply because microinsurance is still in an experimental phase in Chile. For the quality of regulation concerning prudential control, market behaviour and consumer protection depends highly on evolving local practice.[9] Suffice it to say that creating an enabling environment in Chile as to the access of insurance companies targeting the low-income segments of the Chilean population (¨micro-insurers¨), micro-agents and the formalization of social networks within the low-income segments of Chilean society, is the first necessary step for the Chilean legislator. At the same time, microinsurance needs to be legally defined by the legislator in order for the insurance supervisor, supporting governmental agencies (through technical and financial assistance), donor organizations, and other private not-for-profit or commercial institutions to have clarity about their competences and obligations.

5. **In Section I** of this paper, we start off with describing the three existing efforts in Chile to promote insurance for low-income segments of the population: one insurance scheme for poor families aligned to a social protection program, one for small farms and one for microenterprises. In addition, certain economic, cultural and practical hurdles on both the demand and the supply side will be mentioned in order to demonstrate the importance of creating an enabling environment for a diverse insurance market of service providers in Chile, including microinsurers, microagents and mutual insurance companies. In **Section 2** we will illustrate that the existing Chilean regulatory framework only perpetuates the aforementioned hurdles. The crux of the matter is creating the aforementioned diversity in the Chilean insurance market. In this context we will also raise the possibility of imposing a legal obligation on reinsurers to insure the small insurers (¨microinsurers¨) and other formalized social networks for the benefit of the sustainability of their microinsurance schemes.

SECTION 1

Microinsurance schemes in Chile

I. Three examples, one actual existing scheme

6. In March 2010 FOSIS entered into a technical assistance program of the International Labour Organization (ILO) aimed at developing a microinsurance strategy in Chile for the financial protection of 20.000 vulnerable households against the risks of natural death, complete and permanent disability, daily cost of hospitalization, and fire. These 20.000 families were aligned to a social benefit program called *Puente*.[10] Under the conditions laid down in Chilean public procurement regulation, FOSIS tried to initiate a bidding process for the conclusion of a collective insurance agreement with interested insurance companies. The desired insurance policy with a low premium rate was supposed to be initially subsidized by FOSIS in a start-up phase or pilot program (*programa piloto*). Chile´s General Comptroller´s (*La Contraloría*) approved the

9 As an example of evolving practice in commercial insurance in Chile: the recent replacement of Title VIII, Book II, of the Commercial Code by Law Number 20.667 of 2013 and the newly modified consumer protection statute for financial products (Law Number 20.555 of 2011) are modern and well-balanced pieces of legislation along European lines. See e.g. Marcelo Barrientos Zamorano, *El deber precontractual de información en el contrato de seguro, un producto financiero y de consumo. Estudio de sus fuentes*, Revista Chilena de Derecho, Vol. 42, N.° 2, pp. 423-451, [2015].

10 Barbara Magnoni, Patricia Rojas and Aurea Basurto, *Recomendaciones Para un Programa de Microseguros en Chile de FOSIS*, EA Consultants/OIT, 2011.

bidding process on 14 June 2012. However, FOSIS´s efforts did not get a reliable insurance scheme off the ground that was likely to benefit both insurers and insured.

7. As of the year 2000 two insurance companies in Chile, Mapfre and Magallanes, have been willing to offer yield-based and weather-based crop insurance covering all farmers in regions with commercialized agricultural activities.[11] Within the total of covered farms there is a segment of farms classified by the Chilean Ministry of Economy as small farms, i.e. those with revenues between 2.400 and 25.000 UF[12] per year. Fifty to sixty-five percent of the premium is subsidized by the Chilean Ministry of Agriculture – through its *Instituto de Desarrollo Agropecuario (INDAP)*[13] – depending on the agricultural product. Furthermore, an extra bonus is granted for each policy. The agricultural insurance has a fixed premium of 0.6 UF increased by a flexible premium consisting of a percentage of the total coverage, the maximum of which is 55 UF per farm per crop season. The Ministry´s Agricultural Insurance Committee (*Comité de Seguro Agrícola* or *COMSA)* handles the administration of the subsidy. The insurance pool was initially formed by five insurance companies, but eventually operated by two of them (Mapfre and Magallanes).[14] This agricultural insurance product is distributed among small farms by INDAP, commercial bank *BancoEstado* and other authorized institutions when farmers apply for a loan.[15]

8. In July 2015 the sales began of the micro-insurance product ¨Mi familia protegida¨, covering accidental death, total and permanent disability, and dismemberment. This product is the result of a partner-agent model in which insurer AIG Chile underwrites the risk and Fondo Esperanza[16] has provided a network of potential clients, the 100.000 micro-entrepreneurs aligned with Fondo Esperanza. Although the licensed insurance broker is BBVA Corredora Técnica de Seguros Ltda., the actual distribution of this micro-insurance product is done by 1.500 frontline staff members of Fondo Esperanza.[17] Around 3.000 policies are sold to the group of 100.000 potential policyholders. AIG Chile was prepared to offer this insurance for a monthly premium of 799 Chilean pesos (CLP) and a maximum coverage of CLP 1.290.091 for the period of twelve months, along with a maximum coverage of CLP 512.036 for funeral costs. The premiums

11 Almost all regions except the regions II, XI and XII (Antofogasta, Aysén and Magallanes, the two latter being Patagonia). See also http://www.agroseguros.gob.cl/

12 “UF” stands for *Unidad de Fomento*, a unit of account used in Chile created in 1968. Converted in Chilean peso small farms are those with yearly revenues between 61 million and 642 million peso (between 90 and 940 thousand US Dollar).

13 INDAP is a public service supervised by the Ministry of Agriculture that promotes de social, economic and technical development of small farms. See Law Number 18.910 (*Ley Orgánica del Instituto de Desarrollo Agropecuario*), modified by Law Number 19.213 of 1993.

14 See Ignacio Díaz and Marcelo Nasser in: *International Insurance Law and Regulation*, Chapter 11 (Chile), Thomson Reuters 2014, p. 500. The authors also comment that the anti-trust provisions of Decree Law Number 211 of 1973 (*Decreto Ley N.° 211*) do not prohibit this risk pooling except for situations laid down in article 3, letters a and b of DL 211.

15 See e.g. http://www.corfo.cl/programas-y-concursos/programas/subvencion-a-la-prima-del-seguro-agricola

16 Fondo Esperanza (FE) is a private non-profit institution in Chile that promotes the development of micro-entrepreneurs and provides financial and technical assistance to them.

17 This microinsurance product is not sold by AIG Chile as an official and separate business line in their portfolio, but rather as one of the many initiatives within their Corporate Social Responsibility (CSR) program. BBVA Corredora Técnica SA is supported and encouraged by Fundación BBVA Microfinanzas in Spain (see http://mfbbva.org/fondo-esperanza-apoya-a-reclusos-de-la-ix-region-de-chile-para-que-tengan-la-oportunidad-de-emprender/).

are collected through the loans of the micro-entrepreneurs with the Community Bank (*Banco Comunal*) to which Fondo Esperanza is the guarantor.

9. In conclusion, only two insurance schemes, one for small farms and one for micro-entrepreneurs, got off the ground in Chile with a relatively low potential or reach.[18] The agricultural insurance scheme of INDAP is covered by an attractive subsidy. But even in that case the increase of low-income policyholders appears to be possible only when tied to a loan. The same counts for the alliance between AIG Chile, BBVA Corredora Técnica and Fondo Esperanza (FE); the growing awareness among micro-entrepreneurs of the importance of insurance as a risk-mitigating product has to do with their outstanding loan commitments towards the Community Bank (*Banco Comunal*) and indirectly to Fondo Esperanza as the guarantor. When those micro-entrepreneurs have difficulty in repaying their loans because of – for example – a death in the family or sickness, they can undermine the cohesion of the group.[19]

10. As mentioned in the introduction of this paper, it is for the Chilean legislator to define more concretely what segments of the population must be qualified as low-income consumers. The state-financed agricultural insurance scheme of INDAP/CORFO, for example, could well be excluded from microinsurance. The Micro Insurance Centre, in its alliance with the International Development Bank (IDB) and FOMIN, distinguishes microinsurance from insurance schemes that completely depend on government subsidies on the premium.[20] The INDAP/CORFO scheme is also difficult to classify, because insurers Mapfre and Magellanes cover the risks of *all* farms in Chile (not just the small ones). And even the owners of small farms are not easily comparable to the poorest segments of Chilean society.[21] This means that of the three examples, only the scheme of AIG Chile, BBVA and Fondo Esperanza can be regarded as an actual existing micro-insurance scheme in Chile.

II. Economic, cultural and practical hurdles to be surmounted

11. Market deficiencies that are typically attributed to the insurance market inevitably determine the dynamics of the microinsurance market as well. It concerns the following economic obstacles:[22]

* *Moral hazard*—the tendency for the existence of insurance to create perverse incentives to claim spuriously and behave carelessly, causing resource costs which may wipe out the benefits of insurance.

18 See e.g. Camargo & Montoya (2013), supra note 5.

19 Michael J. McCord, *The Partner-Agent Model: Challenges and Opportunities*, in: Craig Churchill, supra note 2, p. 358.

20 See e.g. Sergio Vélez, *Regulación en microseguros: experiencia internacional y reflexiones para Colombia*, 2013, p. 439. This is also the opinion of the International Association of Insurance Supervisors (IAIS), to which the Chilean supervisor (SVS) is a member. State-financed insurance is an uncertain element for insurers and reinsurers, because they invite moral hazard and deficient husbandry (See Paul Mosley, *Assessing the Success of Microinsurance Programmes in Meeting the Insurance Needs of the poor*, DESA Working Paper No. 84, Economic & Social Affairs, October 2009, p. 2).

21 Nicola Jägers, *Financial Regulation in the Aftermath of the Global Financial Crisis from a Human Rights Perspective: Microfinance* Matters, in: Panagiotis Delimatsis & Nils Herger, *Financial Regulation at the Crossroads, Implications for Supervision, Institutional Design and Trade*, 2011, p. 321. The author distinguishes, with references to the microfinance doctrine, between the ´core poor´ and the ´not so poor´ or ´near poor´.

22 Paul Mosley, *supra* note 20, p. 7.

- Adverse selection—the tendency for the demand for insurance to concentrate among the worst risks.
- Effective targeting—the possibility that poor clients may not opt, or be able to opt, for insurance.
- Administrative cost—the risk that the overcoming of all the above problems may bankrupt the insurer.

12. Cultural obstacles in Chile lie in the way both on the supply and the demand side. The corporate mentality in insurance companies does not encourage the market to familiarize with low-income segments, simply because executives and employees do not see a profitable business line in microinsurance to build a career on. From the perspective of the demand side, poor people usually lack the knowledge or awareness of insurance as a risk-mitigating product. And those who do understand the concept might feel that the government is responsible for providing them, or their relatives, social protection against the financial consequences of accidental death, personal injury, sickness or natural disasters; that is to say, when social benefit programs do not fully cover their losses.

13. But knowledge and awareness can be improved by effective financial education programs. A bigger problem is the negative reputation that the business community enjoys among low-income segments of the Chilean population, whether it concerns commercial banks, insurers, retailers or mobile network providers.[23] People believe that the insurance products will only benefit the big companies and prefer to save the money they would otherwise spend on insurance premiums.

14. A practical obstacle for microinsurance in Chile is that the lack of experience with low-income insurance products makes it impossible for actuaries, specialists trained in the mathematics of insurance and risk management, to have an estimated idea of the cost implications of eventual micro-insurance operations in order to establish reliable and accurate premium rates.[24] This lack of experience is also due to the absence of a massive target group of low-income policyholders in order for insurers to be able to offer affordable premiums. The size of Chile´s informal economy is simply not comparable with the millions of informal micro-entrepreneurs and workers in other countries of Latin America (especially Peru, Bolivia, Mexico, Colombia and Brazil).[25]

15. In the next section of this paper we will see that Chilean insurance regulation imposes restrictions on market access for other types of insurers and agents, perpetuating the aforementioned obstacles for the promotion of microinsurance in Chile.

SECTION 2

Enabling the rise of a diverse insurance market

I. Market access for microinsurers

16. Insurance companies are the country´s second largest institutional investors after the

23 Fraud and corruption scandals in retail (*La Polar*), in the stock exchange (*Cascadas*) and in the insurance industry (*Penta*) underline this bad image.

24 John Wipf & Denis Garand, *Pricing Microinsurance Products*, in: Craig Churchill, *supra* note 2, pp. 238 ff.

25 Camargo & Montoya (2013), *supra* note 5. See more in detail about the phenomenon of informal economies in Africa, Asia and Latin America: Frances Lund & Smita Srinivas, Learning from Experience: A Gendered Approach to Social Protection for Workers in the Informal Economy, ILO, 2000.

Pension Fund Administrators (*Administradores de Fondos de Pensiones*). Because of their importance for the financial system they must meet the requirements of Decree Law Number 251 of 1931 (modified by Law Number 20.552 of 2011), which regulates the incorporation of insurance and investment requirements, insurance commerce intermediaries, and the insurance supervisor (SVS).[26] **Article 4 of Decree Law Number 251** stipulates that only anonymous stock companies (*Sociedades Anónimas, SA*), licensed by the insurance supervisor (SVS), are able to establish insurance and reinsurance operations in Chile.[27] **According to article 7 of Decree Law Number 251** the minimum capital requirement for insurance and reinsurance companies amounts to 90.000 UF[28], for general as well as for life (re)insurance companies.[29]

17. Being a licensed (micro)insurer has significant implications, such as having access to additional capital or reinsurance necessary for the sustainability of the insurance scheme. An international consensus exists among working groups and experts in the field of microfinance that a number of regulations are not appropriate when it comes to microfinance. Most important is the issue of minimum capital requirement. New regulation must provide enough flexibility not to impede access to responsible microinsurance in the long-term.[30] Martina Wiedmaier-Pfister and Arup Chatterjee[31] addressed the necessary minimum capital for microinsurers in the following apposite passage:

> "(...) Amassing the volume of small policies required to generate a return to such an investment could take years, if it ever occurred at all. Furthermore, imposing high capital requirements designed to protect the financial system seems inappropriate for such small policies – a capital sledgehammer to crack a solvency nut."

18. Besides the minimum capital requirement for insurance companies in Chile, legal requirements regarding the frequency and content of reporting may be an inappropriate burden for microinsurers, increasing the cost and – as a consequence thereof – the premium.[32] The Chilean insurance supervisor (SVS) has created norms of a general character obliging insurers to implement various risk management practices that reach even beyond the local and technical expertise of the large commercial insurance companies in the country.[33]

19. **Article 7 of Decree Law Number 251** (minimum capital requirement) and **NCG 325** of the insurance supervisor (risk management requirements) prevent the entrance of new commercial players into the Chilean insurance market specialized in microinsurance. The little familiarization with microinsurance in

26 Diaz & Nasser (2014), *supra* note 14, p. 477 and 479.
27 Law Number 18.046 of 1981 regulates the anonymous stock companies in more detail.
28 Today, this amounts to – roughly – 3 million US Dollar, depending on fluctuations of the UF and the US Dollar against the Chilean peso.
29 Only stock companies banks and insurance companies are required to have a minimum capital.
30 Nicola Jägers, *supra* note 21, p. 326-327, although in the context of microcredit. This was also the conclusion reached by the UN Advisors Group on Inclusive Financial Sectors (UNAG) as well as proposed in the 2002 ´Microfinance Consensus Guidelines: Guiding Principles on Regulation and Supervision of Microfinance´, the Consultative Group to Protect the Poor (CGAP). See Nicola Jägers, *op. cit.*, p. 326-327.
31 Martina Wiedmaier-Pfister & Arup Chatterjee, *An Enabling Regulatory Environment for Microinsurance*, in: Craig Churchill, *supra* note 2, p. 494-495.
32 Nicola Jägers, p. 326 (microcredit); Martina Wiedmaier-Pfister/Arup Chatterjee, ibid.
33 See *Norma de Carácter General* 325 of December 2011 of the SVS (NCG No. 325). See e.g. Risk-based Capital and Governance in Latin America: Emerging regulations, EY (2013), p. 9.

the country perpetuates the bad reputation of insurance among low-income segments, the practical hurdle of not having ´experience data´ in order for actuaries to be able to calculate risks and premiums, and – last but not least – the economic obstacles of moral hazard, adverse selection and effective targeting. In an insurance market with a diversity of insurance providers (including microinsurers) the public bidding of the pilot program of FOSIS, as described in paragraph 6, could well have been successful.

II. Flexible licensing for ¨micro-agents¨

20. The Fondo Esperanza experience (see paragraph 8) shows that under the current market structure the sale of microinsurance to low-income segments is extremely difficult in Chile. Approximately 1.500 staff members were needed to convince 3.000 micro-entreneurs to sign the contract; and not even a standalone insurance, but an insurance tied to a loan with an informal Community Bank (*Banco Comunal*) to which Fondo Esperanza is the guarantor. In any case, however, the distribution of the AIG Chile product would not have been possible if Fondo Esperanza were not involved in the alliance. The social capital of Fondo Esperanza made it possible to design an insurance product that really addresses the needs of the community aligned with the institution as well as to sell the microinsurance scheme by the use of frontline staff members that have affinity or ties with such communities. This mechanism should be transposed to the new commercial market players referred to in the previous paragraphs. Microinsurers will need agents from low-income segments or agents that have experience with and knowledge about those segments of Chilean society. The micro-agents will not sell complex insurance products, but simple microinsurance arrangements with a modest coverage, a short coverage period and low premium, all laid down in a policy that is easy to understand and contains few exceptions.

21. The second paragraph of **article 57 of Decree Law Number 251** prohibits insurance agents (¨*agentes de ventas de las Compañías de Seguros*¨), those who sell insurance on account of an insurance company, to provide their services for more than one insurer in each group of insurers (general or life insurance).[34] This provision is counterproductive in case of microinsurance operations, especially in Chile where the sale to low-income segments is quite a challenge.[35] Distribution conditions regarding agency must therefore be flexible in order to make low premiums possible.

III. Formalization of social networks: mutual insurance companies

22. Cooperatives are autonomous associations of persons united voluntarily to meet their economic, social and cultural needs and aspirations through a jointly owned and democratically controlled business. They possess legal personality and include non-profit organizations and businesses owned by people who use their services (consumers cooperatives), by the people who work there (workers cooperative), or people who live their (housing cooperative). An insurance company can be incorporated as a cooperative, the so-called ´mutual insurance company´. While both cooperatives and mutual insurance companies are self-help, self-responsibility and self-governance institutions, the difference between mutuals and cooperatives is the

34 A legal exception is given for credit risk insurers, referring to art. 11 of Decree Law Number 251.

35 Chilean microfinance institutions (MFI´s) such as the savings and loan cooperatives *COOCRETAL* and *CREDICOOP* could be the frontlines of microinsurance distribution.

ownership structure. A mutual insurer must be owned by its policyholders.[36] Mutuals and cooperatives have the same ethos of solidarity among their members. They bear the risk and share the profit, which may be reflected in the yearly premium fluctuations.

23. Chile has a strong self-help and cooperative tradition, starting in the late nineteenth century along British lines and reaching its peak in the 1960s, when the Chilean State directly and indirectly favored cooperative development through government agencies.[37] During both the Allende administration (1970-1973) and the dictatorship of Augusto Pinochet (1973-1990) the cooperative was controversial. Ever since the return of democracy the cooperative sector is characterized by a strong autonomy and little interest from the State in encouraging cooperative development.

24. When it comes to mutual insurance companies, **article 7 of Law Number 18.660 of 1987** – enacted by the Ministry of Treasury (*Ministerio de Hacienda*) during the military regime (*Junta del Gobierno*) – prohibits the authorization of mutuals created after 31 December 1989, the date of the entry into force of this law. The major mutual insurance companies that still exist in Chile are regulated by Law Number 16.744 of 1968 regarding work related accidents and sickness:

- *Instituto de Seguridad del Trabajo* (IST), the first mutual in Chile, created in 1957,
- *La Asociación Chilena de Seguridad* (ACHS), created in 1958 and associated with the members of the Sociedad de Fomento Fabril (SOFOFA)
- *Mutual de Seguridad* (C.Ch.C), created in 1966 by the *Cámera Chilena de la Construcción* (CChC).
- *Instituto de Seguridad Laboral (ISL)*, a national public supervisory service created by law Law Number 16.744.

Article 7 of Law 18.660 also refers to mutual insurance companies for the persons mentioned in **Decree Law 1092 of 1975**, the Armed Forces and *Carabineros* and their families. The segments of Chilean society have an obligatory life and health insurance through mutuals.

25. Mutual insurance companies usually work with external healthcare providers to provide the services. This model could work well in Chile for low-income segments, for example, female domestic workers (nannies) and personnel of apartment complexes (janitors) that still work in an informal or quasi-formal economy. Because they are the members of the mutual and share the same profession, neighborhood, rural area, religion or ethnic background, there is a situation of social cohesion and solidarity among them. Since they also bear the risk together as owners, the obstacles of moral hazard, adverse selection and effective targeting are tackled.

26. **Article 7 of Law Number 18.660** is therefore a regulatory barrier for the creation of diversity in the Chilean insurance market.

IV. The possibility of imposing a legal obligation on (re)insurers

27. Microinsurance as a specific product line or policy of larger insurance company´s

36 Klaus Fisher & Zahid Qureshi, Cooperatives and Insurance: the mutual advantage, in Craig Churchill, supra note 2, p. 341.

37 El Cooperativismo en Chile, Ministerio de Economía, Fomento y Turismo, Unidad de Estudios, Julio 2014, p. 14 (http://www.aciamericas.coop/IMG/pdf/el-cooperativismo-en-chile.pdf). Just to give an example: INDAP was created in that period.

business activities (´downscaling´) does not really get off the ground in Chile. The most effective incentive for downscaling would be the imposition of a legal obligation on larger insurers to create a special unit concentrating on microinsurance. In Brazil, for example, the microinsurance market had already developed itself for years before the creation of a special legal framework on microinsurance (between 22 and 23 million insured).[38] This was also due to financial inclusion policies of the Brazilian Central Bank that imposed an obligation on banking correspondents in the distribution chain to dedicate two percent of the deposits to microfinance operations.[39] India´s Insurance Regulatory and Development Authority (IRDA) took the proactive approach of imposing a forced familiarity with microinsurance in the market by legally obliging insurance companies to address the needs of the poor.[40]

28. However, imposing a legal obligation on large insurance companies without simultaneously adjusting a legal framework that perpetuates an adverse market situation, does not make a lot of sense. The demand for microinsurance will not increase and insurers will do anything to undermine the product.[41] We believe that obliging reinsurers to give microinsurers and mutual insurance companies access to their financial services is more effective.[42]

38 Camargo & Montoya (2013), *supra* note 5, p. 85.
39 Ibid., p. 85.
40 Martina Wiedmaier-Pfister & Arup Chatterjee, *supra* note 31, p. 496.
41 Ibid. p. 496-497.
42 See e.g. David M. Dror & Thomas Wiechers, *The role of insurers and reinsurers in supporting insurance for the poor, in: Craig Churchill*, *supra* note 2, pp. 524-544.

Conclusion

29. The current market structure in Chile of large commercial insurance companies and brokers is not enabling the entrance of new players in the (micro)insurance market. High minimum capital requirements and complex risk management norms for stock companies, restrictions on insurance agents who want to sell microinsurance in both general and life insurance categories, and the prohibition of the authorization of new mutual insurance companies, reflects the conservative and closed Chilean insurance sector. This situation only perpetuates the market deficiencies of moral hazard, adverse selection and effective targeting. Microinsurers, microagents and mutual insurance companies are more likely to have exposure to low-income segments of the Chilean population. By creating diversity in the insurance market the cultural and practical obstacles can also be overcome. The initiatives of public services such as FOSIS, as well as private not-for-profit institutions and donor organizations, will be more helpful and effective in Chile in a diverse market environment.

30. As illustrated in this paper, the essential obstacles of micro-insurance in Chile are of a cultural and economic nature. Thus, high expectations about the promotional effects of an extensive and detailed regulatory framework on micro-insurance in Chile are unrealistic in this early stage of micro-insurance activity in the country. For the quality of regulation depends on broad market experience and evolving local practice. In a start-up phase, regulators should focus themselves on the question as to whether existing rules concerning market access are appropriate for microinsurance schemes. As part of the overall necessity for the Chilean legislator and insurance supervisor to create an

enabling regulatory environment, we propose that they simultaneously oblige reinsurers to provide microinsurers and mutual insurance companies of low-income segments access to capital. It goes without saying that Chilean regulators have to determine more concretely which insurance products must legally be considered as microinsurance.

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Opportunities for inclusion in the financial system in Latin America and the Caribbean
A woman who saves changes lives