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# The highest fine ever applied by Chilean authority for breaching Securities and Corporate laws

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The Chilean securities and insurance regulator, Superintendencia de Valores y Seguros, has this month established the highest fine (approximately US\$165m) ever applied in the Chilean securities market against the largest shareholder of SQM (Sociedad Química y Minera de Chile S.A.), who controls the SQM holding companies and against some principal officers of those companies.

The fines relate to breaches of the Securities and Corporate laws concerning insider trader and fiduciary duties, in respect of the selling and buying of related companies shares without respecting the market price. Other individuals who assisted in the scheme were also fined. This has become known as the "Cascades case".

After investigating over a million transactions relating to shares issued by different SQM holding companies, the authority has concluded that every transaction followed a "clear pattern", which implies that the individuals involved operated a "scheme" to purchase the shares at a lower market price and subsequently sell them at a higher price, benefiting themselves and damaging the SQM holding companies, using inside information and breaching fiduciary duties.

The individuals affected by these fines are challenging them. Even though the case is in its early stages, it is likely to generate new law suits from minority shareholders, mainly represented by Pension Funds Managers, who have a legal duty to protect the Chilean pensions by seeking reimbursement and damages from directors and principal officers of the SQM holding companies, all of which will increase exposure for D&O insurers. One issue could relate to the fact that although the fines will apply as against the directors and officers, they are likely to be paid by the companies they work for, which may be a controversial issue for D&O insurance.

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