



**COUNTRY
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Colombia

INVESTING IN

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This country-specific Q&A provides an overview of investing in laws and regulations applicable in Colombia.

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COLOMBIA INVESTING IN



1. Please briefly describe the current investment climate in the country and the average volume of foreign direct investments (by value in US dollars and by deal number) over the last three years.

Colombia's economy exceeded post-pandemic recovery expectations for 2022, with a 7.5% increase in GDP. Growth was fueled by significant government spending under the outgoing Duque administration and was only partially tempered by concerns over the election of President Petro, the country's first ever left-wing administration.

Growth in 2023 has slowed significantly, but experts predict that Colombia's GDP will outperform that of its regional counterparts and exceed the OECD average growth.

Much of 2023 has been marked by the implementation of a tax reform (passed in late 2022), the approval of a framework development plan and the introduction of bills to reform the healthcare, labor, and pensions systems, among others. While these social reforms are still under discussion in Congress and are likely to be watered down, the increased tax burden and the prospect of significant changes to the welfare systems – together with inflation and the associated increase in interest rates – have understandably generated uncertainties that have affected the pace of decision-making by the private sector. Government inaction in traditional growth sectors, such as construction and infrastructure, has baffled markets.

Nonetheless, the country's political institutions remain strong and its fundamentals are still conducive to sustainable growth: its strategic location in Latin America, its demographics, the availability of skilled labor, and its role as a catalyst for economic development in the region lead us to anticipate that investor interest in Colombia will remain strong.

Sectors that are expected to perform well include agribusiness, real estate, and public utilities.

Additionally, the government's framework development plan has identified key areas for public investment, including sustainable rural development and the transition of the energy matrix towards clean energy.

Foreign direct investments (FDI) in Colombia were USD 7,459 million in 2020, USD 9,561 million in 2021, USD 17,183 million in 2022 and USD 12,797 million up to 3Q 2023.¹

Footnotes:

¹ Source: Banco de la República
(<http://www.banrep.gov.co>)

2. What are the typical forms of Foreign Direct Investments (FDI) in the country: a) greenfield or brownfield projects to build new facilities by foreign companies, b) acquisition of businesses (in asset or stock transactions), c) acquisition of minority interests in existing companies, d) joint ventures, e) other?

The typical forms of FDIs in Colombia are:

- greenfield or brownfield projects to build new facilities,
- acquisition of businesses (in asset or stock transactions),
- acquisition of minority interests in existing companies,
- joint ventures,
- incorporation of wholly owned subsidiaries to provide marketing, technical and other support services for imported products and services.

3. Are foreign investors allowed to own 100% of a domestic company or business? If not, what is the maximum percentage

that a foreign investor can own?

With few exceptions, foreign investors are allowed to own 100% of a domestic company or business. As explained in section 5 below, foreigners are generally required to conduct permanent business in Colombia through a local vehicle, such as a domestic company or a local branch of a foreign company.

Foreign investment is prohibited in (a) defense and national security activities and (b) processing and disposal of toxic, hazardous or radioactive wastes not produced in the country. Foreign investors face other limitations and restrictions in the following sectors:

- **Media:** Only Colombian nationals or legally constituted entities may provide radio or broadcast television services. Non-Colombian shareholders of Colombian entities cannot own more than 40% of the share capital of a Colombian entity providing broadcast radio or broadcast television services.
- **Private Security and Surveillance Companies:** Companies providing certain private security and surveillance services incorporated after 1994 can only have Colombian nationals as shareholders.

4. Are foreign investors allowed to invest and hold the same class of stock or other equity securities as domestic shareholders? Is it true for both public and private companies?

Yes, foreign investment in Colombia receives the same treatment as an investment made by Colombian nationals in both public and private companies.

5. Are domestic businesses organized and managed through domestic companies or primarily offshore companies?

Non-domestic entities that wish to undertake a “permanent activity” in Colombia must carry on business through a local vehicle, such as a domestic company or a local branch of a foreign company. The permanent activity concept, which is different from the notion of permanent establishment for tax purposes, includes but is not limited to the following activities:

a) Opening commercial establishments and/or business offices in Colombia.

b) Participating as a contractor in the performance of works or in the provision of services in Colombia.

c) Participating in any form or activities aimed at the management, use or investment of funds from private savings.

d) Carrying out activities related to extractive industries.

e) Obtaining a concession from the Colombian government or in any way participating in the exploitation thereof.

f) Regularly conducting its shareholders’ or board of directors’ meetings, or locating its management or administration, in Colombian territory.

Colombian legislation does not provide for a specific criterion nor a term of duration in order to determine whether an activity is permanent or not. Therefore, permanence will depend on the particular circumstances such as the nature or scope of the activity, the infrastructure required in the country for its performance, its regularity and the recruitment of personnel in Colombia, among others.

Domestic businesses are primarily (and in some cases are required to be) organized and managed through domestic companies. However, businesses in the oil & gas and certain mining sectors are usually organized as local branches of foreign companies, in order to take advantage of the special exchange control regimes for those sectors.

6. What are the forms of domestic companies? Briefly describe the differences. Which form is preferred by domestic shareholders? Which form is preferred by foreign investors/shareholders? What are the reasons for foreign shareholders preferring one form over the other?

The types of legal vehicles used to carry on business in Colombia are the limited liability company, the corporation (*sociedad anónima*), the simplified stock company (SAS) and the branch of a foreign company.

The following table summarizes the main characteristics of these local vehicles, indicating similarities and differences:

Item	Limited Liability Company	Corporation	Simplified Stock Company	Foreign Company Branch
Incorporation	By means of a public deed granted before a Colombian Notary Public, which must be registered with the local chamber of commerce. The following documents of the shareholder(s) are also required: Certificate of good standing. Certificate of incumbency. Power of attorney to incorporate the company in Colombia. All documents must be legalized up to the apostille and, if granted in a language different to Spanish, be translated by a translator certified by the Ministry of Foreign Affairs.	By means of a public deed granted before a Colombian Public Notary and registered at the local chamber of commerce. The following documents of the shareholder(s) are also required: Certificate of good standing. Certificate of incumbency. Power of attorney to incorporate the company in Colombia. All documents must be legalized up to the apostille and, if granted in a language different to Spanish, be translated by a translator certified by the Ministry of Foreign Affairs.	By means of a private document registered at the local chamber of commerce, unless assets are being contributed at the time of incorporation and the conveyance of such assets required a public deed (e.g., real estate). The following documents of the shareholder are also required: Certificate of good standing. Certificate of incumbency. Power of attorney to incorporate the company in Colombia. All documents must be legalized up to the apostille and, if granted in a language different to Spanish, be translated by a translator certified by the Ministry of Foreign Affairs.	By means of home office board resolutions incorporated into a public deed granted before a Colombian Public Notary and registered at the local chamber of commerce. The following documents of the main office are also required: Certificate of good standing. Certificate of incumbency. Power of attorney to incorporate the branch in Colombia. Compiled bylaws. All documents must be legalized up to the apostille and, if granted in a language different to Spanish, be translated by a translator certified by the Ministry of Foreign Affairs.
Number of partners/shareholders	Minimum two and maximum 25 partners.	Minimum of five shareholders, none of which may have 95% or more of the outstanding capital stock of the company.	Minimum one shareholder, no maximum.	Branches have no shareholders. The home office is the sole owner of the branch.
Liability of partners/shareholders	Limited to the amount of the capital contribution for any obligation unless the bylaws stipulate a greater responsibility for all or some of the partners. Partners are not liable for payment of any debt, except for tax obligations or labor liabilities, for which they are severally and jointly liable with the company and share capital that has not been fully paid.	Limited to the amount of shareholder's contributions, except the following cases: Liability of outstanding obligations of a bankrupt affiliate if the actions by the parent company lead to the insolvency of the affiliate. Willful misconduct or negligence that lead to the deterioration of the company's financial situation; and Overvaluation of contributions in kind.	Limited to the amount of the shareholder's contributions, except in cases of fraud or abuse by the company to detriment of third parties.	A branch does not have a legal personality different from that of its main office. The home office is liable for the assets and liabilities of the branch in Colombia. The home office and the branch are jointly and severally liable for the tax obligations of the branch, without limitation.
Capital Contributions	Partner contributions shall be paid in full when the company is incorporated as well as when any increase is agreed.	At the moment of incorporation, the shareholders must subscribe at least 50% of the authorized capital and pay at least one-third of the subscribed capital. The remaining two thirds must be paid within a year of incorporation.	The subscription and payments of capital can be made under the conditions, in the proportion and terms decided by the shareholders. However, the capital subscribed upon incorporation must be paid within two years after the incorporation date.	Allocated capital must be fully paid and its increase required an bylaws' amendment and authorization by the main office's competent corporate body. The increase of the supplementary investment does not require such amendment and may be made in cash from abroad.
Transfer of shares/stock	Sale or assignment of the limited partnership shares implies that the company's bylaws must be amended, and such an amendment must be approved by the partners assembly and following a right of first refusal. The decision to sell or assign shares must be legalized by means of a public deed duly registered with the local chamber of commerce.	Transfer is carried out by endorsing the share certificates or issuing a letter of instructions and registering the new shareholder in the company's stock ledger. The transfer may be subject to a right of first refusal in favor of the company and the shareholders, if expressly set forth in the bylaws.	Transfer is carried out by endorsing the share certificates or issuing a letter of instructions and registering the new shareholder in the company's stock ledger. The transfer may be subject to a right of first refusal in favor of the company and the shareholders, if expressly set forth in the bylaws.	Does not apply.
Corporate purpose	Corporate purpose shall be determined, and the company's legal capacity will be restricted to the activities contemplated under such corporate purpose.	Corporate purpose must be narrowly defined.	Corporate purpose may be broadly defined.	Corporate purpose shall be narrowly defined and be within the home office's corporate purpose.
Term	Defined (but may be extended by the partners).	Defined (but may be extended by the shareholders).	May be indefinite.	Defined (but may be extended by the main office within the duration term of the main office).
Legal reserves	10% of the annual net gains up to 50% of the company's capital.	10% of the annual net gains, up to 50% of the subscribed capital.	No legal reserve is mandatory, unless otherwise contemplated in the company's bylaws.	10% of the annual net gains, up to 50% of the assigned capital.

Which form is preferred by domestic shareholders?

Domestic shareholders usually prefer simplified stock companies (SAS).

Which form is preferred by foreign

investors/shareholders?

Foreign investors/shareholders also prefer simplified stock companies (SAS). However, foreign investors in the oil & gas and certain mining sectors are usually organized as branches of foreign companies, in order to take advantage of the special exchange control regimes for those sectors.

What are the reasons for foreign shareholders preferring one form over the other?

Foreign investors prefer simplified stock companies because they provide limited liability for shareholders, permit a single shareholder, are subject to fewer formalities to incorporate and give shareholders the freedom to establish the terms and conditions for the company's functioning and internal governance structure.

7. What are the requirements for forming a company? Which governmental entities have to give approvals? What is the process for forming/incorporating a domestic company? What is a required capitalization for forming/incorporating a company? How long does it take to form a domestic company? How many shareholders is the company required to have? Is the list of shareholders publicly available?

Which governmental entities have to give approvals?

Typically, no governmental approvals of authorizations are required for the incorporation of a company. Exceptions include banks and other financial institutions.

What is the process for forming/incorporating a domestic company?

The incorporation of a local vehicle is, in general terms, simple and expeditious. Commercial companies and foreign company branches must register in the commercial registry kept by the local chamber of commerce of the municipality where they are to be based. To register the vehicle, the incorporation documents must be submitted to the local chamber of commerce along with, among others, the letters of acceptance of the persons appointed as directors, officers and statutory auditors (if required). For more detail on the incorporation documents, please see section 6.

The local chamber of commerce, in most cases, also processes the tax ID issued for the registration of the entity with the National Tax and Customs Office. In order to obtain the registration, the corresponding fees and taxes must be paid to the local chamber of commerce.

What is a required capitalization for forming/incorporating a company?

Generally, Colombian legislation does not require a minimum capital contribution to incorporate commercial companies or register foreign company branches. The capital contribution is determined by the shareholders or partners depending on the activities that the company plans to carry out in Colombia.

The specifics of the capitalization requirements, once the entity is incorporated, vary depending on the chosen legal vehicle. However, if the Colombian entity will hire expatriate employees, the entity must have a paid in capital of at least approx. USD 29,000 (100 Colombian monthly minimum wages) to be eligible to sponsor the visa application. Please see section 6 for more detail on the capital contributions for each entity.

Certain activities require a minimum capital for regulatory purposes, such as banks and other financial institutions, courier services, temporary employment agencies, among others.

How long does it take to form a domestic company?

Corporations and branches, as both require public deeds for incorporation, take around three weeks to be incorporated, once all the documents of the shareholder/main office are apostilled and translated to Spanish by a translator certified by the Colombian Ministry of Foreign Affairs. Simplified stock companies (SAS) take from five to 10 business days to be incorporated once all the documents of the shareholder are apostilled and translated to Spanish by a translator certified by the Colombian Ministry of Foreign Affairs. Note that the time may vary depending on the efficiency of the chamber of commerce of the municipality where the entity will be based.

How many shareholders is the company required to have?

Corporations must have a minimum of five shareholders, simplified stock companies only require one shareholder. Branches are owned wholly by its main office. Please refer to section 6 for more detail on the shareholder requirements.

Is the list of shareholders publicly available?

The information of the founding shareholders of a corporation and a simplified stock company is publicly available. However, the names of subsequent shareholders are not publicly available. The list of partners of a limited liability will always be publicly available.

8. What are the requirements and necessary governmental approvals for a foreign investor acquiring shares in a private company? What about for an acquisition of assets?

Foreign investors are not, merely by reason of being foreign, subject to special requirements or governmental approvals to acquire shares in a private company or to acquire assets. These investors will be subject to the requirements and approvals applicable to all investors, outlined below. Foreign investors are required to properly register and update their foreign investment registrations with Banco de la República, the Colombian central bank (the "Central Bank"), in order to preserve full repatriation of remittance rights.

Merger control

Any transaction resulting in an economic concentration in at least one market in Colombia involving two or more entities that are engaged in the same economic activity, or the same value chain in Colombia, will be subject to Colombian merger control when the parties meet certain thresholds in terms of assets or turnover.

On average, antitrust clearance can take between six and eight months unless the transaction triggers a risk of undue restriction of free competition, in which case the procedures can take longer. However, when the combined market share of the parties is below 20% in all of the potentially affected markets, a simplified notification procedure applies, and the transaction will be deemed to be approved upon the filing of the notification.

Other regulatory or government approvals

For acquisitions in certain sectors, such as the financial sector, private surveillance and security services and healthcare, approval from the relevant industry regulator is required.

For mergers, administrative authorization may be required if any of the merging companies are subject to government oversight (i.e., by the Financial Superintendence or the Superintendence of Health) or meet certain conditions, such as having pension

liabilities on their balance sheet.

Upon authorization from the relevant authority, if required, the companies must incorporate the agreed-upon merger into a public deed (or into a private document, if the absorbing entity is a simplified stock company and there is no transfer of real estate), together with the financial statements and other documents related to the merger and amend the surviving company's bylaws. This must be registered with the local chamber of commerce, and all pertinent notifications to other government entities must be made.

Colombian companies are required to report the identity of their controlling shareholder (to the local chamber of commerce) and the identity of their ultimate beneficial owner (in a registry kept by the Colombian tax office)

Tax

Foreign investors that have transferred assets located in Colombia have the obligation to file an income tax return with the Colombian Tax Office within one month after closing. For that purpose, the foreign entity or individual needs to be registered as a taxpayer with the Colombian Tax Office, which includes the ability to file tax returns electronically.

9. Does a foreign investor need approval to acquire shares in a public company on a domestic stock market? What about acquiring shares of a public company in a direct (private) transaction from another shareholder?

Foreign investors are allowed to acquire shares in a public company on a domestic stock market and are not subject to special approvals, merely as a consequence of being foreign. An investor can agree the terms for the acquisition of shares in a public company directly with another shareholder but, as a general rule, the actual transfer of the shares will have to take place through the stock exchange's platform (and thus open to interference from third parties)

10. Is there a requirement for a mandatory tender offer if an investor acquired a certain percentage of shares of a public company?

As a general rule, whenever an investor, directly or indirectly: (a) is to become a holder of 25% or more of the voting shares of a Colombian public company; or (b) already holds 25% or more of the outstanding voting

shares of such a company and intends to increase its ownership by more than 5%, the investor must acquire the shares through a public tender offer addressed to all shareholders. Some exceptions exist.

If, as a result of a merger or an indirect acquisition of shares, any such investor meets the above percentages, the investor must launch a public tender offer to acquire the same amount of shares acquired through the merger or indirect transfer of shares, within three months following the date when the merger or indirect acquisition is completed, unless within that time frame the acquirer has disposed of the shares exceeding these percentages.

11. What is the approval process for building a new facility in the country (in a greenfield or brownfield project)?

In the case of greenfield projects, the developer must:

- Request a development permit before the competent authority for the creation of public and private spaces, the public roads and the public services' infrastructure.
- Request a building permit (simultaneously with the development one or after the development one is issued) that will authorize the respective constructions and will specify the uses that can be granted over the property.

Construction can only commence once the development and building permits are in effect and must be completed within their term.

In a brownfield project, where construction has already taken place, approvals will depend on the type of project that will be developed: (a) a new development permit may be required or (b) it will be only necessary to request some building permits, one for the demolition of the existing constructions and other one for the construction of the new project.

12. Can an investor do a transaction in the country in any currency or only in domestic currency? a) Is there an approval requirement (e.g. through Central Bank or another governmental agency) to use foreign currency in the country to pay: i. in an acquisition, or, ii. to pay to contractors, or, iii. to pay salaries of employees? b) Is

there a limit on the amount of foreign currency in any transaction or series of related transactions? i. Is there an approval requirement and a limit on how much foreign currency a foreign investor can transfer into the country? ii. Is there an approval requirement and a limit on how much domestic currency a foreign investor can buy in the country? iii. Can an investor buy domestic currency outside of the country and transfer it into the country to pay for an acquisition or to third parties for goods or services or to pay salaries of employees?

The general rule is that payments for goods or services between Colombian companies (including foreign-owned domestic companies) or resident individuals must be made in Colombian pesos. Transactions involving at least one party who is not a Colombian company or resident can, in principle, be conducted in foreign currency. Please note, as highlighted in section 5, that foreign investors conducting permanent activities in the country will be required to operate through a local vehicle, which will in turn be obligated to conduct its transactions with other Colombian parties in Colombian pesos. This means that foreign investors will frequently need to make foreign currency available to their Colombian subsidiaries for these to convert into Colombian pesos to make payments and conduct business in the country.

Exceptions to this rule include payments made through offshore accounts registered with the Central Bank and payments with respect to certain companies in the oil, gas and mining sectors.

Certain specified foreign exchange transactions must be performed through market intermediaries (i.e., local banks and other financial institutions) and registered at the Central Bank or through registered offshore bank accounts. These operations include the purchase and/or sale of currencies for direct foreign investment, payment of imports, the repatriation of export proceeds and offshore loans, among others. All other transactions can be freely carried out (i.e., without going through local banks or financial institutions or registered offshore bank accounts).

Is there an approval requirement (e.g., through Central Bank or another governmental agency) to use foreign currency in the country to pay:

in an acquisition, or

No, but in order to secure repatriation and remittance rights, the payments must either (i) flow through a Colombian financial institution (usually the seller's local bank account) or made, on both ends, through offshore accounts registered with the Central Bank.

to pay to contractors, or

Paying contractors denotes the payer is carrying out permanent activities in Colombia (or acting on behalf of someone carrying out permanent activities in Colombia), so please note, as highlighted in section 5, that foreigners conducting permanent activities in the country will be required to operate through a local vehicle, which will in turn be obligated to conduct its transactions with other Colombian parties in Colombian pesos.

to pay salaries of employees?

Paying salaries of employees denotes the payer is carrying out permanent activities in Colombia (or acting on behalf of someone carrying out permanent activities in Colombia), so please note, as highlighted in section 5, that foreigners conducting permanent activities in the country will be required to operate through a local vehicle, which will in turn be obligated to conduct its transactions with other Colombian parties in Colombian pesos.

Is there a limit on the amount of foreign currency in any transaction or series of related transactions?

No.

Is there an approval requirement and a limit on how much foreign currency a foreign investor can transfer into the country?

No, but there are limits to cash transactions.

Is there an approval requirement and a limit on how much domestic currency a foreign investor can buy in the country?

No.

Can an investor buy domestic currency outside of the country and transfer it into the country to pay for an acquisition or to third parties for goods or services or to pay salaries of employees?

The Colombian peso is not a freely convertible currency and cannot be held in offshore bank accounts. Foreign investors usually make foreign currency available to their Colombian subsidiaries for these to convert into Colombian pesos to make payments and conduct

business in the country.

13. Are there approval requirements for a foreign investor for transferring domestic currency or foreign currency out of the country? Whose approval is required? How long does it take to get the approval? Are there limitations on the amount of foreign or domestic currency that can be transferred out of the country? Is the approval required for each transfer or can it be granted for all future transfers?

In general, no. However, if the payment is for a transaction that must be carried out through a local commercial bank or financial institution or through a registered offshore bank account (such as direct foreign investment, payment of imports and offshore loans, among others), the local financial institution will require evidence that the original operation was duly registered with the Central Bank. For example, if the currency is needed to pay dividends, the commercial bank will require evidence that the original foreign investment giving rise to the dividends was registered; if the payment is needed to service an offshore loan, the commercial bank will require evidence that the relevant offshore loan was registered.

Whose approval is required?

No approval is required, see above.

How long does it take to get the approval?

N/A

Are there limitations on the amount of foreign or domestic currency that can be transferred out of the country?

No limitations, see above.

Is the approval required for each transfer or can it be granted for all future transfers?

N/A

14. Is there a tax or duty on foreign currency conversion?

No. Please note that Colombia has a financial transactions tax, whereby all debits from accounts held in Colombian financial institutions are levied at a rate of 0.4%.

15. Is there a tax or duty on bringing foreign or domestic currency into the country?

No. Please note that Colombia has a financial transactions tax, whereby all debits from accounts held in Colombian financial institutions are levied at a rate of 0.4%.

16. Is there a difference in tax treatment between acquisition of assets or shares (e.g. a stamp duty)?

As a general rule, the acquisition of shares is not subject to a transactional tax (stamp tax or otherwise). Asset acquisitions may be subject to stamp tax, depending on the nature of the asset.

Stamp duty in Colombia is triggered by the transfer, under any title, of real estate when its transfer value equals or exceeds approximately USD 211,000. The stamp duty rate is marginal and progressive: when the transfer value is less than approximately USD 211,000, the rate is 0%. Between USD 211,000 – 524,350, is 1.5%. For transfer values exceeding USD 524,350, the rate is 3%.

Share acquisitions and asset acquisitions are both subject to income and capital gains taxes, and maybe treated differently, depending on the nature of the shares (i.e., if there are listed or not) and of the assets. Shares are not subject to depreciation, certain assets will. Share acquisitions will not allow a step up in the basis of underlying assets, while fixed asset acquisitions generally will.

17. When is a stamp duty required to be paid?

A stamp duty must be paid when the notary issues the real estate deed.

18. Are shares in private domestic companies easily transferable? Can the shares be held outside of the home jurisdiction? What approval does a foreign investor need to transfer shares to another foreign or domestic shareholder? Are changes in shareholding publicly reported or publicly available?

Yes, for more detail on the transfer of shares please

refer to section 6.

Can the shares be held outside of the home jurisdiction?

Yes, share certificates can be held outside of Colombia. However, please note that all share certificates must be signed by one of the legal representatives of the Colombian entity and the stock ledger must be kept in the offices of the Colombian entity.

What approval does a foreign investor need to transfer shares to another foreign or domestic shareholder?

In general, none, except for restricted industries, see section 3.

Are changes in shareholding publicly reported or publicly available?

The stock ledger of private company is not publicly available. However governmental entities such as the Superintendence of Companies can request a copy to verify that the foreign investment is duly registered. Often contracting parties request a certification of the shareholding composition of the company.

19. Is there a mandatory FDI filing? With which agency is it required to be made? How long does it take to obtain an FDI approval? Under what circumstances is the mandatory FDI filing required to be made? If a mandatory filing is not required, can a transaction be reviewed by a governmental authority and be blocked? If a transaction is outside of the home jurisdiction (e.g. a global transaction where shares of a foreign incorporated parent company are being bought by another foreign company, but the parent company that's been acquired has a subsidiary in your jurisdiction), could such a transaction trigger a mandatory FDI filing in your jurisdiction? Can a governmental authority in such a transaction prohibit the indirect transfer of control of the subsidiary?

Yes, all foreign direct investment must be registered at the Central Bank.

With which agency is it required to be made?

The filing must be made at the Central Bank.

How long does it take to obtain an FDI approval?

In general, no approval is required, see section 3.

Under what circumstances is the mandatory FDI filing required to be made?

All foreign investment made in foreign currency must be transferred through the foreign exchange market (Colombian banking institutions) or a registered foreign currency account and report as an investment using the correct forms and procedures.

If a mandatory filing is not required, can a transaction be reviewed by a governmental authority and be blocked?

In practice there are no blocking mechanisms, under FDI regulations. A transaction could be blocked on antitrust grounds, or through restrictions on banking procedures or on trading with certain countries.

If a transaction is outside of the home jurisdiction (e.g., a global transaction where shares of a foreign incorporated parent company are being bought by another foreign company, but the parent company that's been acquired has a subsidiary in your jurisdiction, could such a transaction trigger a mandatory FDI filing in your jurisdiction?

If the company being acquired is not a direct shareholder, no FDI filing is required. However, an indirect sale could trigger the obligation to register a change in the local subsidiary's "situation of control" (kept by the local chamber of commerce) as well as the identity of the subsidiary's ultimate beneficial owner (a registry kept by the Colombian tax office).

Can a governmental authority in such a transaction prohibit the indirect transfer of control of the subsidiary?

No, unless the governmental authority has a contractual right to do so (i.e., under a concession agreement, or when the relevant shares were acquired from the government pursuant to a privatization).

20. What are typical exit transactions for foreign companies?

The following are the most used exit transactions for foreign investors:

- Liquidation of the company of branch.

- Merger with a foreign company which absorbs the Colombian company.
- Transfer of the branch as an ongoing concern.
- Transfer of the shares of the Colombian company.

21. Do private companies prefer to pursue an IPO? i. on a domestic stock market, or ii. on a foreign stock market? iii. If foreign, which one?

Local IPOs are extremely rare (the last one occurred in 2012). A small number of Colombian companies have pursued IPOs on foreign stock markets, through de-SPAC transactions with entities listed on the New York Stock Exchange or Nasdaq.

22. Do M&A/Investment/JV agreements typically provide for dispute resolution in domestic courts or through international arbitration?

M&A/Investment/JV agreements involving foreign investors will typically provide for dispute resolution through international arbitration.

23. How long does a typical contract dispute case take in domestic courts for a final resolution?

A typical contract dispute can take between 2.5 to 3.5 years to be settled by a first instance court, and an additional 1 to 2.5 years to be settled by an appellate court. This time may vary depending on the location of the respective courts.

24. Are domestic courts reliable in enforcing foreign investors rights under agreements and under the law?

Under Colombian law foreign investors have the right to be heard and to present their case before domestic courts, including producing and requesting evidence, in the same conditions as a Colombian national, whether a private party or a government-owned entity. In practice, however, local courts are perceived as being skewed towards protecting Colombian nationals and having a slight anti-private sector bias.

25. Are there instances of abuse of foreign

investors? How are cases of investor abuse handled?

Colombian has never singled out foreign investors simply because they are foreign. The Colombian State has historically enjoyed a good reputation for respecting the rights of private investors, local and foreign. The country has been a party to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States for over 25 years but only until recently (2016) has Colombia been involved in investor-State disputes resolved by the International Center for the Settlement of Investment Disputes (ICSID). And while the number of investment cases brought against the country has increased, the balance of those that have already been decided clearly favors Colombia. The expectation is that cases brought against Colombia will continue to increase given the delicate global and regional economic and political context, and also as a result of the slowing pace of the country's economic growth and the reforms being pushed by the administration of Gustavo Petro, the country's first ever left-wing administration. The country is also a member of the Multilateral Investment Guarantee Agency and is a party to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. The country's Arbitration Statute is modeled after the UNCITRAL Model Law.

26. Are international arbitral awards recognized and enforced in your country?

Colombian law recognizes the right of parties to a contract to agree to arbitration. The Colombian legal system is dualistic, which means that it distinguishes between domestic and international arbitration and provides for a different set of rules applicable for each one. As far as international arbitration is concerned, Colombia is a Party to the 1958 New York Convention and has an international arbitration statute based on the UNCITRAL Model Law (Section 3 of Law 1563 of 2012). Therefore, under both Colombian law and the New York Convention, parties can refer their disputes to arbitration and Colombian courts will recognize and enforce international arbitral awards.

Please note that under the Colombian international arbitration statute, an arbitration is international when: (a) the parties to an arbitration agreement have, at the time of the conclusion of that agreement, their domiciles in different States; (b) the place where a substantial part of the obligations of the commercial relationship is to be performed, or the place with which the subject matter of the dispute is most closely connected, is different from the parties' domiciles or; (c) the dispute affects the interests of international trade.

27. Are there foreign investment protection treaties in place between your country and major other countries?

Colombia has bilateral investment treaties in force with Spain, Switzerland, Peru, China, India, United Kingdom, Japan, and France, and has signed bilateral investment treaties (which are not yet in force) with Spain (which would replace the one that is currently in force), Cuba, Chile, the Belgium-Luxemburg Economic Union, Korea, Singapore, Turkey, Brazil, United Arab Emirates and

Venezuela.

Free trade agreements and other treaties with investment protection provisions are in force with the Andean Community, MERCOSUR, the European Union, Chile, Canada, the United States, El Salvador, - Guatemala-Honduras, the European Free Trade Association, Costa Rica, México, Israel, Korea and the Pacific Alliance (Chile, Mexico and Peru). Other such treaties have been signed with Panama and Singapore but have not yet entered into force.

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