

III. Banking Relations

A. Introduction to the Colombian Financial System

The Colombian Financial System is regulated by and based on a model of specialized banking. With regard to international transactions, these must be subject to the Colombian exchange regime.

The Banco de la República is responsible for undertaking the activities of central banking, such as the emission of local currency, the control of monetary circulation and the administration of the legal reserves. It likewise may be the lender of last resort.

Thanks to the model of the specialized bank, the country has different kinds of financial entities, in accordance with the kind of activity they carry out:

- Banks which carry out general activities
- Financial corporations which undertake activities of corporate credit and some activities of investment banking.
- Commercial financial companies which finance the acquisition of consumer goods through different mechanisms like financial leasing.

Foreign investment aimed at the Colombian financial system is permitted and there is already an important presence of foreign banks. These investments are regarded as deposits and are covered by a deposit insurance managed by the Fund of Guarantees of Financial Institutions (Fondo de Garantías de Instituciones Financieras – “Fogafin”), which is a Colombian State agency. This insurance covers deposits of up to COP\$ 20.000.000 (US\$ 10,000) with a deductible of 25% and in accordance with the terms laid down in Colombian legislation.

The aim of Fogafin’s deposit insurance is to guarantee the account balances which the financial institutions inscribed in the Fund are responsible for, when those institutions are subjected to an administrative forced liquidation. A guaranty is provided to the savers and depositors, in the form of the total or at least partial restitution of the deposited sum, in accordance with the law.

B. Related Entities

The Board of Directors of the Banco de la República

It is the authority which regulates monetary, exchange and credit matters. It is worth pointing out that, in contrast with other countries, this entity is not responsible

for the regulation of the financial system, which, in the case of Colombia, is the responsibility of the national government and the Financial Superintendency.

The Financial Superintendency

It acts as an agent of control and regulation and its functions are to rigorously supervise the financial system and sanction any violation of the norms in force, which may be sanctions originating from complaints by clients of the financial entities.

Website: www.superfinanciera.gov.co/

Fund of Guarantees of Financial Institutions (Fogafin)

The entity which is responsible for protecting the trust of depositors and creditors of the financial system, on the basis of the preservation of the equilibrium and equity of the economy. Its functions are to organize, develop and administer the system of deposits insurance.

Website: www.fogafin.gov.co

C. Bank Accounts

It is indispensable to open a bank account when establishing a company in the country, in order to receive the capital contributions paid to such a company. Likewise, opening a bank account is required for carrying out the great majority of the company's administrative activities, like the paying of employees and suppliers, tax payments, and in general, most financial operations.

1. Types of Bank Account

Current Account

This may only be opened in the country through Colombian banking establishments. Its aim is to integrate the handling of payments made by a natural person or legal entity. However, it also allows them to make deposits. This kind of account does not usually pay interest, but it does offer many options for payment systems.

It is worth noting the following characteristics of a current account

- It is the only way to write a check in Colombia
- It may be a joint or collective account; likewise the account holder may authorize a third party to write checks.
- The bank may debit the holder's obligations to the bank from such an account, except when the holder of the current account has stipulated the contrary.

- The funds belonging to this account may be embargoed.
- It offers the possibility of bank overdrafts, a mechanism of short-term credit.

It is worth noting that there are limitations on the funds which foreigners who do not have an established residence in the country may put into their accounts and on the destination of their giros.

Savings Accounts

These kinds of accounts are a banking service which aims to promote savings by their clients. They are meant for natural persons; however, small businesses may make use of this service, since their payment needs are less complex than those of large companies.

The main characteristics of the savings account are as follows:

- They pay interest.
- They allow general access to payment systems.
- They allow for the possibility of having joint or collective accounts.
- In contrast with the current account, the bank is not allowed to debit the account holder's obligations to the bank from his or her account, unless the two parties have agreed to the contrary.
- Up to the amount of COP\$ 26.437.146 (US\$ 13,218) the funds in this kind of account cannot be embargoed, so long as the beneficiary of the account is a natural person. The abovementioned limit is subject to periodical adjustments by the Colombian authorities.
- It is regarded as a mechanism of savings and not a mechanism for the granting of credit.
- It is not possible to write checks with this type of account.

2. Requisites for Opening a Bank Account.

The requisites pertaining to the opening of an account may vary from one financial entity to another. In general, however, they are as follows:

- A request for general information about the partners or shareholders of a company.
- General information about the activities the company is going to carry out.
- Information about the source of the funds.

In addition, the following are usually required:

- Tax Identification Number (NIT)
- Information about the shareholders or partners of the company.

- Information about the source of the funds pertaining to the establishment of the capital of the company.
- Information about the first wire transfer sent to Colombia, along with an estimate of the frequency of the realization of such transfers.
- Business references.

It is worth noting that while some banks allow banking accounts to be opened with a foreign passport, most require a Colombian identity document (foreigner's i.d. card or "cédula").

3. Mechanisms of Control

Colombian bank accounts are controlled by means of the following mechanisms:

- Establishment of joint bank accounts.
- An agreement with the bank on conditions of use, for example, the need for a given signature to gain access to the funds in an account.
- An agreement on restrictions with the bank which establishes limits on the amount of funds in the account to which certain signatories may have access.

D. References

- Superintendencia Financiera: Financial Superintendency: www.superfinanciera.gov.co.
- Asociación Bancaria y de Entidades Financieras de Colombia (Association of Colombian Banking and Financial Entities): www.asobancaria.com.
- Banco de la Republica: www.banrep.gov.co.
- Fondo de Garantías de Instituciones Financieras (Fogafín): www.fogafin.gov.co.

Warning

The information outlined in this chapter has been prepared on the basis of the current regulation in force and a sampling of the internal policies of different banks and financial entities. Notwithstanding the above, each bank or financial entity may come to establish additional requisites in accordance with the autonomy of its corporate policies and its familiarity with the handling of international transactions. Therefore, we recommend that you undertake a prior examination of the conditions and the portfolio of services offered by each entity in the Colombian financial

market, so that you may choose the institutions and products which suit your needs and may offer the possibility of correspondent banking with the entities abroad used by the interested parties.

Texts: Araújo Ibarra & Asociados
Editing: Invest in Bogota
March 2011

Invest in Bogota is the investment promotion agency for Bogota and Cundinamarca, a public-private partnership between the Bogota Chamber of Commerce, the Bogota City Government and the Government of Cundinamarca.

Our mission is to support investors that are exploring opportunities in Bogota and Cundinamarca.

In 2009 we were ranked as the top non- OECD investment promotion agency in the World by the World Bank.

We have a multidisciplinary team with sector-specific expertise, which allows us to provide prospective investors with value added advice and information.

We offer, free of charge, and in absolute confidentiality, services for investors during each stage of their investment process.

Please contact us at:

Email: info@investinbogota.org

Phone: +57 (1) 742-3030

Fax: +57 (1) 742-3050

Address: Carrera 7 N.º 71-21, Torre B, oficina 901, Bogotá, Colombia.