



# Doing Business in Colombia

Corporate Affairs 2026

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# Preambulo



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in **Colombia** there are regulations that allow the development of commercial activities and the development of investment projects.

This document presents a guide that provides an overview of the legal aspects of the most commonly used investment vehicles in Colombia, as well as a compilation of the most relevant **current commercial and economic trends.**



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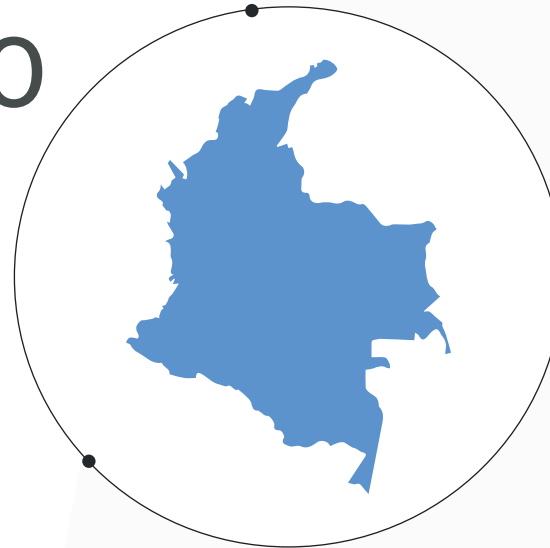
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# Corporate overview



## Most common investment vehicles

The commercial law provides two main alternatives to develop permanent activities in Colombia: (1) the incorporation of a commercial company or (2) the establishment of a branch of a foreign company.

### 1. Commercial Companies

Commercial companies are a legal entity distinct from its associates. There are many types of commercial companies in Colombia, however, the most used in Colombia to make investments, national or foreign, are: a. Public Limited Company (S.A.); b. The Limited Liability Company (LTDA); c. The Simplified Joint Stock Company (S.A.S).

### Most common types of commercial companies in Colombia:

#### a) Public Limited Company (S.A)

The corporation must be incorporated by public deed with at least 5 shareholders, none of which may directly own 95% or more of the outstanding shares of the corporation. In addition, as a general rule, the shareholders are only liable up to the amounts contributed. The management of the corporation will be headed by its legal representative, who must have an alternate and will be required to have a Board of Directors consisting of at least three principal members and their respective alternates. The powers of the Board of Directors normally include the administration of the company as provided in the Company's bylaws. However, the most important decisions should remain with the Shareholders' Meeting.

The corporation must have a public accountant and a statutory auditor who will perform the functions assigned by law and the bylaws.



#### b) Limited Liability Company (LTDA)

The capital of a Limited Liability Company is divided into capital quotas and its incorporation must be formalized by means of a public deed, as well as any subsequent amendment of the bylaws, including any transfer of capital quotas among the partners or to a third party, which must also comply with this formality.

This company does not require a Board of Directors and the partners may directly manage the company; however, they may delegate their management to a single partner, who will be their legal representative.

In this type of company, the partners, as a general rule, are only liable up to the amount of their contributions in the company, with the exception of tax and labor matters, cases in which the partners are jointly and severally liable for the debts not paid by the company. This means that in the event that the company does not have the resources to meet such obligations, the partners must assume them with their personal assets.

In the event that the activities or business to be carried out in Colombia corresponds to private security, these must be provided through a Limited Liability Company.

### c) Simplified Joint Stock Company (SAS)

A **Simplified Joint Stock Company (SAS)** is constituted by a private document subscribed by the shareholders and may be formed by one or more shareholders. There is no limit as to the number of shareholders. The capital of a SAS is divided into shares that are freely negotiable by endorsement, unless the bylaws provide for preferential rights in favor of the remaining shareholders or any other limitation or restriction on the transfer of shares.

The capital of the company may consist of different types of shares, including preferred and non-voting dividend shares, payable shares, fixed annual dividend shares and preferred shares. As a general rule, shareholders are only liable for the amounts contributed, unless the corporation has been used in fraud of third parties and the law.

SAS do not require a Board of Directors. However, the shareholders may create this corporate body in the company's bylaws. The Board of Directors may be formed by any number of persons, with or without alternates, appointed by the Shareholders' Meeting or by the sole shareholder. The powers of the Board of Directors must be established in the bylaws.

There are restrictions as to the activities that may be carried out by a SAS, for example, activities in the financial sector and the trading of its shares in the Stock Exchange.

In recent years, SAS are the most common type of companies incorporated in Colombia, taking into account the advantages and flexibility they offer for their management and operation, as well as the freedom their shareholders have to establish their functioning and structure.

### Incorporation of a Commercial Company

Once the future shareholders or partners have decided on the type of company they wish to incorporate, the company must be incorporated by means of a public deed or private document, depending on the type of company chosen.

### Benefit and Collective Interest Companies (BIC)

The Benefit and Collective Interest Companies (BIC) are not a different type of company, but a special condition of the company. A corporation, limited liability company, simplified stock company, or any other, may adopt the quality of BIC. To do so, its corporate purpose incorporates a social and environmental purpose that goes beyond the benefit and interest of its shareholders. In other words, these companies have internal policies focused on the contribution to the environment, the welfare of workers and the interest of the community.

BIC companies pursue three fundamental purposes: (i) They incorporate a social and environmental purpose, which goes beyond maximizing the economic interest of their shareholders, (ii) They ensure compliance with the described purpose so that the directors and managers of the company can maximize the social and environmental interest, (iii) They guarantee transparency in the reporting of their business impact in five dimensions: business model, corporate governance, labor practices, environmental practices and community practices.



The incorporation document of a commercial company must include, at least, the following information:



- I. The name of the company;
- II. The names and domicile of the shareholders or partners, as the case may be; III.
- III. The corporate domicile;
- IV. The corporate purpose, specifically determining the main activities to be carried out by the corporation;
- V. The capital of the corporation and the part subscribed and paid by each partner or shareholder at the time of incorporation. In stock corporations, the bylaws must also indicate the class and nominal value of the shares, as well as the form and terms for their payment, which may not exceed 1 year for corporations and 2 years for simplified stock corporations; in limited liability companies the payment of the installments must be made at the time of incorporation;
- VI. The powers and limitations of the administrators;



- VII. The dates and procedure for convening the corporate bodies, as well as the manner in which decisions shall be made;
- VIII. The dates on which the inventories and general account balances must be made;
- IX. The procedure for the distribution of profits by way of dividend for each fiscal year, with an indication of the reserves to be made;
- X. The exact duration of the Company and the grounds for early dissolution. Notwithstanding, simplified stock companies may be incorporated for an indefinite term;
- XI. The conflict resolution mechanisms applicable in case of disagreements among the associates or with the Company. When the shareholders decide to submit their disputes to the decision of an arbitration tribunal, the bylaws must indicate how the arbitrators are to be appointed and the rules of operation of the tribunal;

**This document must be registered before the Chamber of Commerce of the respective domicile of the company and obtain the registrations before the national and local tax authorities.**

## Payment of capital and contributions

Commercial companies may be incorporated without a minimum capital requirement, leaving it to the discretion of the incorporating partners or shareholders to decide the initial capital of the company.

However, depending on the type of company chosen by the shareholders, the capital must be paid in full or partially at the time of incorporation. The same applies to the contributions made by subsequent shareholders during the life of the company.

Thus, the following are the rules applicable to the payment of capital and subsequent contributions:

- In limited liability companies (**LTDA**) the capital must be paid in full at the time of incorporation.

- In corporations, at least half of the authorized capital must be subscribed, which must be paid within a maximum term of one year. In turn, at least one third (1/3) of the authorized capital must be paid by the shareholders at the time of incorporation.

- Finally, in the case of simplified stock companies, the law does not require a minimum amount to be subscribed or paid in this type of company at the time of its incorporation, however, the capital subscribed by the shareholders must be paid in a maximum term of **two (2) years**.

## Commercial registration

Once the company is registered, it will be registered in the public commercial registry, which is in charge of the respective Chambers of Commerce of its domicile, in order to make public its status as a merchant. In this registry, the general information of the company can be evidenced by any interested party, as well as its incorporation documents, reforms and others. At the same time, it contains the appointment of its administrators and their powers.

**This registry must be renewed annually and before March 31 of each year.**

## Control situation and business groups

In the event that a commercial company is subordinated to the control of a natural or legal person, whether domestic or foreign, such situation must be recorded in the commercial registry. Control occurs, among others, in the following situations:



Control by participation: occurs when one of the shareholders holds more than **50%** of the company's capital.



Internal control due to the right to cast votes constituting a minimum majority of decision making: This occurs when one has the power to vote at the Shareholders' Meeting or the power to elect the majority of the members of the Board of Directors.



External control or by contractual subordination: this occurs when there is the exercise of dominant influence by reason of an act or business entered into with the company.

In cases where, in addition to the situation of control, it is verified that there is unity of purpose and direction between the parent or controlling company and the companies subordinated to it there is a business group. There is unity of purpose and direction when the entities pursue the achievement of an objective determined by the parent or controlling company.



## Dissolution and Liquidation

### Dissolution

The liquidation of the company may be carried out voluntarily by the shareholders or through the courts if the company initiates a reorganization process (corporate insolvency). In order to carry out the voluntary liquidation of the company, the Shareholders' Meeting must adopt the decision to dissolve the company indicating one of the causes established by law, which are, among others: (i) due to the expiration of its term of duration; (ii) due to any cause agreed in the bylaws; (iii) by decision of the shareholders or; (iv) due to the non-compliance with the going concern hypothesis. This decision must be registered at the Chamber of Commerce of the company's domicile.

Once the dissolution of the company has been approved, it may not carry out new operations in the development of its corporate purpose and shall carry out all acts necessary for its immediate liquidation. For this purpose, it will appoint a liquidator who will have the functions established by law and the bylaws.

### Liquidation

During the liquidation period, the liquidator will inform the creditors of the state of liquidation of the company by means of a notice published in a newspaper regularly circulated in the domicile of the company. The same will be done by means of a communication addressed to the **DIAN**.



## Failure to comply with the going concern assumption

During the existence of the company, management must monitor the financial statements and projections of the company in order to determine the possible existence of: (1) equity impairment; and (2) insolvency risks, both from the perspective of the business model and the sector in which the Company carries out its corporate purpose.

Accordingly, after analyzing the Company's financial statements and projections, if management reasonably identifies the existence of present or future circumstances that may cause the company to cease operations or enter into liquidation, it must inform the Shareholders' Meeting so that the appropriate decisions may be adopted regarding the continuity of the Company, including evaluating alternatives that would allow the restoration of equity or, alternatively, approving its dissolution and liquidation due to failure to comply with the going concern assumption.



Likewise, the liquidator shall submit to the Assembly an inventory statement detailing the assets and liabilities of the company and indicating whether there are any unpaid liabilities that cannot be covered with the company's equity. Finally, he/she will present the final liquidation account indicating how the remainder, if any, will be distributed among the shareholders, which must be approved by the Shareholders' Meeting and registered with the respective Chamber of Commerce in order to terminate the existence of the legal personality.



## Establishment of a Branch of a Foreign Company

In order for a foreign company to conduct business in Colombia, it must establish a branch through which it may, among other things, register establishments open to the public and carry out the business activities of the parent company in Colombia. It is important to note that such activities must be permanent in nature. Colombian law does not precisely define the duration required for an activity to be considered permanent; however, this will depend on the business projections and the regularity of the activities in order to determine such criterion.

Accordingly, a branch of a foreign company is considered a commercial establishment and, therefore, does not have a legal personality separate from that of its parent company, nor does it have partners or shareholders. Instead, it has: (a) an assigned capital, (b) a defined corporate purpose, and (c) its own directors and statutory auditors. Since both entities share the same legal personality, the foreign company is liable for all operations and obligations of its Colombian branch.

A branch is incorporated through the execution of a public deed before a notary public in the domicile where the branch will conduct its activities. The public deed must include copies of the following documents:

- The bylaws and incorporation documents of the foreign company
- Documents evidencing the existence and validity of the foreign company.
- The minutes or resolution of the foreign company approving the opening of the branch in Colombian territory.

Documents issued abroad must be apostilled or legalized before the Colombian consul in order to be valid in Colombia and must be officially translated if their original language is different from Spanish.

Under Colombian law, branches of foreign companies must appoint a statutory auditor if they intend to carry out permanent business or activities in Colombia. Likewise, they must keep accounting books in Colombian pesos and in the Spanish language, in compliance with the International Financial Reporting Standards (IFRS) for the preparation and presentation of their financial reports.

The commercial registration of branches has the same characteristics as that of commercial companies and, like them, must be renewed annually no later than March 31 of each year.

## Foreign Direct Investment in Colombia

Foreign direct investment in Colombia includes, among others, investments made by a non-resident in Colombia in:

- I.** Shares, quotas or equity interests, and bonds mandatorily convertible into shares of a Colombian company (that is not publicly traded);
- II.** Real estate located in Colombia (residential or commercial), whether acquired directly or through trust arrangements;
- III.** Rights or interests in trust arrangements entered into with trust companies subject to the inspection and supervision of the Colombian Financial Superintendence;
- IV.** Interests or economic rights derived from acts or contracts such as collaboration agreements, concessions, service agreements, management agreements, licenses, consortiums, temporary unions, or agreements involving technology transfer, provided that these do not represent an equity participation in a company and the profits or income generated by the investment depend on the company's earnings;
- V.** Interests in the assigned capital and supplementary investments to the assigned capital of a branch of a foreign company established in the country;
- VI.** Interests in private equity funds;
- VII.** Intangible assets acquired for the purpose of being used to obtain an economic benefit in the country.





## Portfolio investment

Portfolio investment is the investment made by a non-resident foreign exchange resident in securities registered in the **National Registry of Securities and Issuers (RNVE)**, in collective investment funds or in negotiable certificates of deposit programs representing securities.

### a) Non-resident foreign exchange

Colombian or foreign individuals who do not live in Colombia continuously or discontinuously for more than 183 days in a period of 365 days (including the days of entry and exit of the country) will be non-residents for exchange purposes.

Public law entities, legal entities, including non-profit entities, which are not domiciled in Colombia, are also non-residents.

Foreign exchange residence is not similar to tax residence.

## Registration of foreign investment in Colombia

The foreign direct investments and portfolio investments previously mentioned, must be registered by the investor before Banco de la República, either through an **intermediary of the foreign exchange market (IMC)**, a clearing account or directly before Banco de la República, when appropriate.

The corresponding investment registration must be made by the investor, either through its attorney-in-fact or whoever represents its interests.

In general, foreign direct investment is automatically registered when the foreign currency is channeled, at which time the minimum information related to the operation and the parties involved must be provided.



For better illustration, foreign investment in Colombian companies would have the following procedure:

**(i)** The non-resident (investor) must transfer the resources from his account abroad to the account of the Colombian company that has issued shares, quotas or participations to him (receiving company).

**ii)** For the deposit of the money in the bank account of the receiving company, the latter must submit an international investment form informing the investor's data, the amount paid and the shares issued. This will authorize the monetization to the company's bank account.

**iii)** The banking entity that receives the resources in Colombia (**Intermediary of the Exchange Market - IMC**) will transmit this information to the Bank of the Republic of Colombia. In this way, the foreign investment will be registered in the receiving company.

## Real estate investment in Colombia:

**i)** The non-resident (investor) must transfer the funds from his account abroad to the bank account in Colombia of the seller of the property or to that of the attorney-in-fact, in case he has one.

**ii)** The seller or the attorney-in-fact must present the promise of sale of the property and the respective power of attorney and other documents related to the business.

**iii)** The **BMI** will transmit such information to the Bank of the Republic of Colombia. In this way, the foreign investment in real estate will be registered.



## Substitution and cancellation of foreign investment

The substitution of the previously registered foreign investment occurs when it is totally or partially transferred to another non-resident by any act or business. The cancellation of the foreign investment occurs as a consequence of such act of transfer, since the previous registration must be cancelled before the foreign exchange authority. The cancellation of the investment will also be applicable in the events in which the investor transfers the investment to a Colombian resident.

Among others, the substitution and/or cancellation may occur when the investment is sold to residents or non-residents, when the investor dies or the legal entity is liquidated, when the receiving company is liquidated or the investment is totally or partially liquidated, in cases of capital decrease, repurchase of shares, sale of real estate.

The term to carry out the processes of substitution and/or cancellation of foreign investment is 6 months following the date of the operation.

Failure to comply with this obligation or its untimely compliance will result in the imposition of penalties of up to **200%** of the value not reported or reported untimely.

By way of illustration, the processes mentioned for the transfer of the investment are listed below.



### **Disposal of shares, quotas or participations of a Colombian company or of real estate located in Colombia by a non-resident to another non-resident.**

When a non-resident who has previously registered his investment in a Colombian company disposes of such investment in favor of another non-resident, the investors must carry out the process of substitution and cancellation of the investment before the Banco de la República through the New Foreign Exchange Information System within 6 months from the date on which the transaction was carried out.

### **Disposal of shares, quotas or participations in Colombian companies or of real estate in Colombia by a non-resident to another person resident in Colombia.**

In this case, the cancellation of the investment must only be registered with the Banco de la República within 6 months from the date on which the business was carried out.

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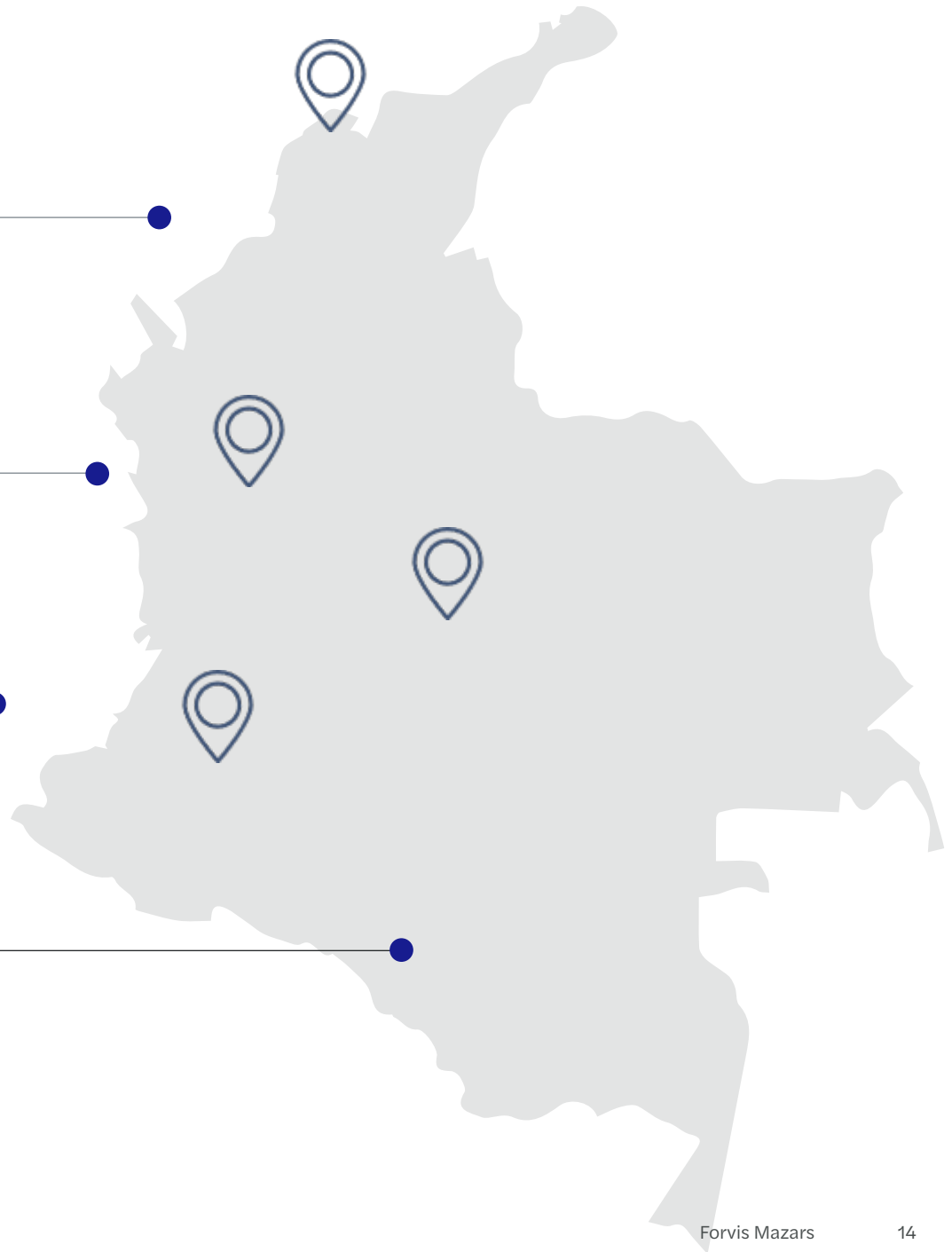
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