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2026 **Legal Guide** to doing business in Colombia

General Framework **for Foreign Investment**

COLOMBIA CO

THE COUNTRY OF BEAUTY

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This memorandum reflects the legislation in force in Colombia as of the date of its preparation and is intended to provide general and basic information about Colombian law.

It is not intended to constitute or serve as a substitute or replacement for specific legal advice regarding any particular matter or issue. Such legal advice should be obtained through direct consultation with specialized legal services. For this purpose, we suggest contacting one of the firms listed in the Investor Services Directory available on the ProColombia website.

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Foreign investment plays a fundamental role in the Colombian economy. For this reason, a clear and efficient regulatory framework aligned with international standards becomes the best tool to attract high value-added investments with a long-term perspective.

The main issues a foreign investor should know regarding foreign investment in Colombia are framed within four fundamental principles of the applicable legal regime:

1. GENERAL REGIME OF INVESTMENT IN COLOMBIA

(i) Equal treatment: As a general rule, the Colombian Constitution provides that foreign nationals and Colombian nationals shall enjoy the same rights and guarantees. Accordingly, foreign investment receives the same treatment as domestic investment, except for the limitations expressly established by law.

(ii) Universality: Foreign investment is allowed in all sectors of the economy, except for: (i) activities related to national defense and security; and (ii) the processing, disposal, and dumping of toxic, hazardous, or radioactive waste not produced in the country.

Notwithstanding the foregoing, certain sectors and activities are subject to restrictions or special conditions for foreign participation, including certain activities related to television broadcasting, the artisanal fishing industry, the manufacture, possession, and use of nuclear, biological, and chemical weapons, the trade of such products, and private armed security and surveillance services, among others.

There are also particular requirements regarding business organization and trusted personnel in sectors such as maritime transport, the press, and radio broadcasting. Likewise, the State maintains a monopoly over certain activities, such as production, import, export, distribution, and sale of liquor, as well as games of chance.

(iii) No prior authorization: As a general rule, foreign investment in Colombia does not require prior authorization or a favorable opinion from any authority. However, in certain regulated sectors, such as insurance and finance, as well as mining and hydrocarbons, prior authorization or recognition by the competent authorities may be required in specific cases.

In all cases, Foreign Direct Investment ("FDI") must be mandatorily registered before the Colombian Central Bank (Banco de la República).

(iv) Mobility: Foreign investors may freely determine the destination of their investments. Accordingly, they may remit their returns abroad, reinvest them in the country, or dispose of and liquidate their investments to remit the proceeds abroad, subject to the applicable foreign exchange regime.

Although free movement of capital prevails in Colombia, the regulations contemplate the possibility of adopting exceptional measures in specific scenarios, such as when the country's international reserves fall below three months of imports.

(v) Complementary international framework: In addition, Colombia has International Investment Agreements ("IIAs") and Double Taxation Agreements ("DTAs"), which reflect the country's commitment to the promotion, protection, and stability of international investments.

1.1. International Investment Agreements ("IIAs")

In order to establish optimal conditions for investors from other States within Colombian territory, Colombia has implemented a policy of negotiating and ratifying International Investment Agreements ("IIAs"), which are mainly contained in Agreements for the Reciprocal Promotion and Protection of Investments ("BITs") or in foreign investment chapters of Free Trade Agreements ("FTAs").

IIAs seek to create a fair and clear legal framework establishing minimum standards of protection for foreign investors that decide to undertake FDI in Colombia. IIAs also grant such standards of protection to Colombian investors investing in jurisdictions covered by these international instruments.

1.1.1. Contents of the IIAs in force

Although the content of IIAs has evolved since the first type of these agreements was ratified by the Colombian State, as a general rule, these instruments contain clauses relating to: (i) temporal scope; (ii) covered investments and covered investors; (iii) standards of protection (National Treatment, Most-Favoured-Nation Treatment, Minimum Standard of Treatment, prohibition of expropriation without compensation, and free transfer of funds); and (iv) dispute settlement.

The IIAs currently[1] in force in Colombia are the following:

[1] It is important to note that the agreements with EFTA and the European Union do not contain an investment chapter with the same depth as a standard IIA. However, since they do contain provisions relating to investment, they are included in this list.

CHART 1

A. America

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
Pacific Alliance (Additional Protocol)	In force since May 1, 2016. Law 1721 of June 27, 2014. Approved by decision C-620 of 2015.	Additional Protocol to the Framework Agreement of the Pacific Alliance among the Republic of Colombia, the Republic of Chile, the United Mexican States, and the Republic of Peru.
Canada	In force since August 15, 2011. Law 1363 of 2009. Approved by decision C-608 of 2010.	Free Trade Agreement between the Republic of Colombia and Canada.
Chile	In force since May 8, 2009. Law 1189 of 2008. Approved by decision C-031 of 2009.	Free Trade Agreement between the Republic of Colombia and the Republic of Chile — Additional Protocol to the Economic Complementation Agreement for the Establishment of an Expanded Economic Area between Colombia and Chile (ACE 24) of December 6, 1993," signed in Santiago, Chile, on November 27, 2006.
Costa Rica	In force since August 1, 2016. Law 1763 of 2015. Approved by decision C-157 of 2016.	Free Trade Agreement between the Republic of Colombia and Costa Rica.
Cuba	In force since 1996. Law 245 of 1995. Approved by decision C-379 of 1996.	Agreement between the Government of the Republic of Colombia and the Government of the Republic of Cuba on the Promotion and Reciprocal Protection of Investments.
United States	In force since May 15, 2012. Law 1143 of 2007 and Law 1166 of 2007. Approved by decisions C-750 and C-751 of 2008, respectively.	Trade Promotion Agreement between the Republic of Colombia and the United States of America.

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
Mexico	In force since 1995. Law 172 of 1994. Approved by decision C-178 of 1995. Decree 2676 of 2011 and amending protocol, Law 1457 of 2011. Approved by decision C-051 of 2012.	Free Trade Agreement between the Republic of Colombia and the United Mexican States.
Peru	In force since December 30, 2010. Law 1342 of July 31, 2009. Approved by decision C-377 of 2010.	Agreement between the Government of the Republic of Colombia and the Government of the Republic of Peru on the Promotion and Reciprocal Protection of Investments.
Northern Triangle (Guatemala, El Salvador, and Honduras)	In force. With Guatemala since November 12, 2009; with El Salvador since February 1, 2010; and with Honduras since March 27, 2010. Law 1241 of 2008. Approved by decision C-446 of 2009.	Free Trade Agreement between the Republic of Colombia and the Republics of El Salvador, Guatemala, and Honduras.

B. Europe

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
EFTA	In force with Switzerland and Liechtenstein since July 1, 2011. The agreement with Norway entered into force on September 1, 2014. The agreement with Iceland entered into force on October 1, 2014. Law 1372 of 2010. Approved by decision C-941 of 2010.	Free Trade Agreement between the Republic of Colombia and the EFTA States.
Spain	In force since September 22, 2007. Law 1069 of 2006. Approved by decision C-309 of 2007.	Agreement between the Republic of Colombia and the Kingdom of Spain for the Promotion and Reciprocal Protection of Investments.

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
France	In force since October 14, 2020. Law 1840 of July 12, 2017. Approved by decision C-252/2019.	Agreement between the Government of the Republic of Colombia and the Government of the French Republic on the Promotion and Reciprocal Protection of Investments.
United Kingdom of Great Britain and Northern Ireland	In force since October 10, 2014. Law 1464 of 2011. Approved by decision C-169 of 2012.	Bilateral Agreement for the Promotion and Protection of Investments between the Government of the United Kingdom of Great Britain and Northern Ireland and the Republic of Colombia.
Switzerland	In force since October 6, 2009. Law 1198 of 2008. Approved by decision C-150 of 2009.	Agreement between the Republic of Colombia and the Swiss Confederation on the Promotion and Reciprocal Protection of Investments.
European Union	In force since 2013. Law 1669 of 2013. Approved by decision C-335/2014.	Trade Agreement between the European Union, Colombia, Peru, and Ecuador.

C. Asia and the Middle East

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
China	In force since July 2, 2012. Law 1462 of 2011. Approved by decision C-199 of 2012.	Bilateral Agreement for the Promotion and Protection of Investments between the Government of the Republic of Colombia and the Government of the People's Republic of China.
South Korea	In force since July 15, 2016. Law 1747 of 2014. Approved by decision C-184 of 2016.	Free Trade Agreement between the Republic of Colombia and the Republic of Korea.
India	In force since July 3, 2012. Law 1449 of 2011. Approved by decision C-123 of 2012.	Agreement for the Promotion and Protection of Investments between the Republic of Colombia and the Republic of India.

COUNTRY	ENTRY INTO FORCE	TITLE OF THE AGREEMENT
Israel	In force since August 11, 2020. Law 1841 of July 12, 2017. Approved by decision C-254/2019.	Free Trade Agreement between the Republic of Colombia and the State of Israel: Chapter 10 – Investment.
Japan	In force since September 11, 2015. Law 1720 of 2014. Approved by decision C-286 of 2015.	Agreement between the Republic of Colombia and Japan on the Liberalization, Promotion and Protection of Investment.

Signed

A. America

COUNTRY	STATUS	TITLE OF THE AGREEMENT
Brazil	Signed on October 9, 2015. Pending domestic approval proceedings before the Congress of the Republic.	Cooperation and Investment Facilitation Agreement between the Republic of Colombia and the Federative Republic of Brazil.
Panama	Signed on September 20, 2013. Pending domestic approval.	Free Trade Agreement between the Republic of Colombia and Republic of Panama
Venezuela	Signed on February 3, 2023. Pending domestic approval proceedings before the Congress of the Republic.	Agreement between the Bolivarian Republic of Venezuela and the Republic of Colombia on the Promotion and Reciprocal Protection of Investments.

B. Europe

<table>
<tr><th>COUNTRY</th><th>STATUS</th><th>TITLE OF THE AGREEMENT</th></tr>
<tr><td rowspan="2">Spain</td><td rowspan="2">Both instruments signed on September 16, 2021. Pending legislative approval before the Congress of the Republic.</td><td>Agreement between the Republic of Colombia and the Kingdom of Spain for the Promotion and Reciprocal Protection of Investments.</td></tr>
<tr><td>Joint Interpretive Declaration between the Republic of Colombia and the Kingdom of Spain on the Agreement for the Promotion and Reciprocal Protection of Investments between the Republic of Colombia and the Kingdom of Spain (Colombia–Spain BIT).</td></tr>
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C. Asia and the Middle East

COUNTRY	STATUS	TITLE OF THE AGREEMENT
United Arab Emirates	Signed on November 12, 2027. Pending domestic approval proceedings before the Congress of the Republic.	Bilateral Agreement on the Promotion and Protection of Investments between the Government of the Republic of Colombia and the Government of the United Arab Emirates.
Singapore	Signed on January 26, 2022. Pending domestic approval proceedings before the Congress of the Republic.	Trade Agreement between Singapore and the Pacific Alliance.
Turkey	Signed on July 28, 2014. Pending domestic approval proceedings before the Congress of the Republic.	Agreement between the Government of the Republic of Turkey and the Government of the Republic of Colombia on the promotion and reciprocal protection of investments.

2. ONGOING IIA NEGOTIATIONS

Colombia is currently conducting negotiations for BITs with the following countries:

- *Qatar*
- *Kuwait*
- *Pacific Alliance Investment Chapter to add Australia, New Zealand, and Canada as Associated States*

2.1. Double Taxation Agreements

Double Taxation Agreements ("DTAs") are bilateral or multilateral international instruments aimed at establishing clear rules to avoid or mitigate double taxation on income or equity that, under normal circumstances, would be taxed by the same or similar taxes in two or more jurisdictions. These treaties are governed by principles of international public law and also serve to promote cooperation among States to combat tax evasion.

DTAs operate as a tool to attract foreign investment and promote outbound investment by Colombian investors, insofar as they provide, among others, the following benefits:

i. *Tax stability regarding the minimum operating conditions between tax residents of two States.*
ii. *Reduction of the effective consolidated tax burden through access to reduced withholding rates.*
iii. *The possibility of exempting a given income from taxation, generally in the source country, to the extent the foreign company does not have sufficient presence in that country.*

DTAs are usually limited to income tax and, in some cases, include equity tax. As a general rule, indirect taxes such as Value Added Tax ("VAT") are not covered by these instruments.[2] Nor do they include territorial taxes such as the Industry and Commerce Tax ("ICA").

When investors evaluate where to carry out their investment projects, expected return and risk are important, but tax impact also plays a leading role. For this reason, the tax regime, and DTAs in particular, become decisive elements when choosing where to invest.

In this regard, one indicator of the application of common principles among countries and of tax development is the number of ratified DTAs, as these agreements increase return levels for investors and promote legal certainty. Colombia has followed the global trend of adopting, as a basis for negotiations, a treaty model that generally resembles either the model developed by the Organization for Economic Co-operation and Development ("OECD") or that of the United Nations ("UN").

The DTAs currently in force in Colombia are those entered into with:

1. *the Andean Community,*
2. *Spain,*
3. *Chile,*
4. *Switzerland,*
5. *Canada,*
6. *Mexico,*
7. *South Korea,*
8. *Portugal,*
9. *India,*
10. *the Czech Republic,*

[2] *However, within the framework of the Andean Community ("CAN"), Decisions 599 and 600, as amended by Decision 635, seek to harmonize substantive and procedural aspects of Value Added Tax and excise taxes among the different CAN Member States.*

11. the United Kingdom,
12. Italy,
13. France,
14. Japan,
15. and the Pacific Alliance (for pension funds).

Colombia has also entered into specific treaties relating to exchange of tax information, including the OECD Convention on Mutual Administrative Assistance in Tax Matters, which currently covers approximately 108 jurisdictions. Colombia also has a tax information exchange agreement with the United States and has negotiated agreements of this type with other jurisdictions (e.g., Curaçao and Barbados); however, the latter have not yet completed their approval process. In June 2017, Colombia signed the multilateral instrument to prevent base erosion and profit shifting promoted by the OECD, which will modify most of the DTAs entered into by Colombia by establishing stricter requirements in order to access the benefits provided under those Agreements.

2.2. Foreign Investment in Colombia and Colombian Investment Abroad

2.2.1. General foreign exchange concepts applicable to the investment regime

The Colombian foreign exchange regime is a partially controlled regime, which means that some transactions must be reported to the competent authorities before, simultaneously with, or after they are carried out. Foreign exchange policy is regulated by the Colombian Central Bank.

KEY INSIGHT
Colombia does not have absolute exchange controls. This means that, depending on the type of transaction carried out, different options for moving your money into and out of the country will exist.

In this regard, the following concepts are key to understanding the foreign exchange regime applicable to investments:

- ***Foreign exchange resident:*** *(i) Colombian nationals residing in the national territory, or foreigners who remain in the country for more than 183 days within a 365 consecutive-day period; and (ii) companies, entities, and branches of foreign companies whose main domicile is in Colombia.*

KEY INSIGHT
The status as a foreign exchange resident or non-resident determines how a person may conduct transactions in Colombia. It is one of the first aspects that must be defined before investing in the country.

Please note: The 183-day rule includes the days of entry into and departure from the country, and the count is made from the date of the transaction, looking 183 days backwards regardless of whether the period crosses into a different calendar year. Make sure to keep careful track if you are close to this threshold.

- ***Foreign exchange market:*** *It is composed of those foreign currencies that* *must be mandatorily transferred through authorized foreign exchange market intermediaries or through the compensation mechanism, and those foreign currencies that are voluntarily transferred through that market even though they are exempt from that obligation.*

- ***Foreign Exchange Market Intermediary ("IMC"):*** *These are the entities authorized to process foreign exchange transactions, such as banking establishments, financial corporations, and financing companies.*

- ***Compensation account:*** *It is a bank account opened abroad by a foreign exchange resident, in any foreign currency and in any country, which must be registered under the compensation mechanism before the Colombian Central Bank either because it has been used for mandatory transfer transactions or for payments between residents.*

- ***Transactions of mandatory registration:*** *These are the transactions that must mandatorily be conducted through the foreign exchange market:*
  - *Import and export of goods*
  - *International loans (both inbound and outbound) and their interest*
  - *Foreign investments in Colombia or Colombian investments abroad, including dividends and returns*
  - *Investments in securities and assets abroad*
  - *Financial derivative transactions*
  - *Guarantees and sureties in foreign currency*

WORTH NOTING!

If a transaction is listed as a transaction of mandatory registration an authorized bank or a registered compensation account must be used for the remittance of the money. There are no exceptions.

- ***Foreign Exchange Information System:*** *This is an online tool available through the Colombian Central Bank's website that guides users in complying with their foreign exchange obligations. The system contains several modules for transmitting foreign exchange information, and the Bank regularly updates it to facilitate reporting, access, and the different modules, ultimately seeking to ensure that most transactions can be processed through the System without additional intermediation. The currently available modules are: (i) international investments, (ii) compensation accounts, (iii) exchange declarations, and (iv) external indebtedness. The system requires the creation of an actor and a user account for access.*

2.2.2. Types of investment

2.2.2.1. Direct investment – foreign investment in Colombia

Foreign direct investment in Colombia (FDI) is one in which the foreign investor acquires an interest in a sector in Colombia. It includes:

- *Equity interests in the capital of a company resident in Colombia, represented in shares, quotas, capital contributions, or bonds mandatorily convertible into shares, not registered in the National Securities Registry or in a Foreign Securities Quotation System.*
- *Interests acquired in a company resident in Colombia that are registered in the National Securities Registry and acquired with an intention of permanence.*
- *Rights or interests in trust businesses.*
- *Real estate located in the country.*
- *Interests or economic rights arising from acts or agreements such as collaboration agreements, concessions, management services, licenses, consortiums, temporary unions, or agreements involving technology transfer, where these do not represent an equity interest in a company and the income or returns generated by the investment depend on the company's profits.*
- *Interests in the assigned capital and supplementary investment to the assigned capital of a branch of a foreign company.*
- *Interests in certain private equity funds.*
- *Intangible assets acquired for the purpose of being used to obtain an economic benefit in the country.*

2.2.2.1.1. Obligations

Registration

FDI must mandatorily be conducted through the foreign exchange market.

All FDI must be registered before the Colombian Central Bank. This registration may be carried out directly by the investor, its attorney-in-fact, or the legal representative of the company receiving the investment. There are two main modalities:

- ***Direct investment with foreign currency transfer:** When foreign currency is sent to Colombia, registration is completed automatically at the time of the transaction. The IMC or the holder of the compensation account transmits the information to the Foreign Exchange Information System of the Colombian Central Bank.*
- ***Direct investment without foreign currency transfer:** If the investment does not involve the transfer of foreign currency (for example, capitalization of a pre-existing obligation, in-kind contributions, or contributions of industry, among others), registration is completed directly in the Foreign Exchange Information System of the Colombian Central Bank.*

Registration does not "legalize" the origin of the funds. The information declared is deemed to have been submitted under oath, and the investor is responsible for its accuracy.

Returns

The dividends and profits generated by the investment must also be transferred through the foreign exchange market. In order to remit such returns, the investor must have a previously opened foreign exchange channel (i.e., a registered investment). The party responsible for the remittance must process the transaction by filing a minimum data statement for investment transactions (formally Form No. 4) or through a compensation account using the appropriate foreign exchange codes.

Please note: If there are changes to the investment, the registration must be updated before the Colombian Central Bank. Usually, and depending on the relevant transaction, this must be done within the six months following the transaction. Failure to comply with this deadline may result in sanctions imposed by the Superintendency of Companies.

Cancellations, substitutions, and reorganizations

What is a cancellation? It is the total or partial reduction or liquidation of an FDI.

What is a substitution? It is a change or modification in the holder of the investment, the composition of the capital, or its destination. For example, when the investment is sold to another foreign investor.

Both transactions must be reported in the Foreign Exchange Information System of the Colombian Central Bank.

2.2.2.1.2. Other relevant investment transactions

Advances for future capitalizations

For foreign exchange purposes, advances for future capitalizations are treated as external indebtedness and must be registered before or simultaneously with the disbursement. They will only be considered investment once they are actually capitalized.

Capitalizations:

It is possible to capitalize obligations between the Colombian entity and its foreign shareholder. The nature of the relevant obligation must be analyzed in order to determine its foreign exchange treatment.

DID YOU KNOW?
Capitalizations of obligations between the Colombian entity and its foreign shareholder are deemed FDI "without foreign currency transfer," and, for foreign exchange purposes, they are perfected simply by completing the corresponding registration before the Colombian Central Bank.

2.2.2.1.3. Supporting documents

All documents supporting the FDI must be kept for at least five years. Control authorities may require them in the event of audits.

2.2.2.2. Portfolio investment

Portfolio investment is made in any of the following assets:

- *Securities registered in the National Securities Registry or listed in Foreign Securities Quotation Systems (except for interests acquired with an intention of permanence or interests in private equity funds).*
- *Interests in certain collective investment funds.*
- *Interests in programs involving negotiable deposit certificates representing securities.*

The main difference from direct investment is that portfolio investment does not involve an intention of permanence or participation in the management of the company.

2.2.2.2.1. Registration and transfer obligations

Registration of portfolio investment depends on how the funds are brought into Colombia:

- ***- With foreign currency transfer:** If money is sent from abroad, registration is automatic when the bank processes the transaction.*
- ***Without foreign currency transfer:** This applies when returns already in Colombia are reinvested, or in special transactions such as American Depositary Receipts ("ADRs") and Global Depositary Receipts ("GDRs"). In those cases, registration is completed by making the corresponding book entry at the centralized securities depository (Deceval).*

As with direct investment, registration does not "legalize" the funds. The information is submitted under oath, and the investor is responsible for its accuracy.

2.2.2.2.2. Actors and access channels

To invest in portfolio instruments in Colombia, a local administrator is mandatorily required. Such administrator acts as the investor's attorney-in-fact for all transactions and is responsible not only for executing transactions, but also for complying with information and registration obligations before the Colombian authorities.

2.2.2.2.3. Returns, repatriation, and cancellation

The administrator is responsible for sending abroad the gains (dividends, returns, or the capital of the investment). Changes in portfolio investment are reported by the administrator on a consolidated basis, without the need for individualized reports.

2.2.2.2.4. Operational and compliance aspects

The administrator assumes several responsibilities on behalf of the investor, including:

- *Compliance with foreign exchange obligations.*
- *Provision of information to the authorities.*
- *Tax obligations related to the investment.*

2.2.2.3. Colombian investment abroad

Colombian investment abroad is made by a foreign exchange resident in shares, rights, or other equity interests in the capital of companies, branches, or any type of enterprise located outside Colombia.

Even when investing abroad, the resident remains subject to the rules of the Colombian foreign exchange market. This means that the funds must be transferred through an IMC or a compensation account, and the investment must be registered before the Colombian Central Bank. Returns and repatriation of the investment must also be transferred through the foreign exchange market.

Before investing in a foreign company, make sure your transaction complies with registration and transfer requirements. This will help you avoid issues with foreign exchange control authorities.

2.2.4. Investor's foreign exchange rights

Once the investment has been registered (whether direct or portfolio), the following rights are guaranteed in Colombia:

- *Reinvest profits in Colombia*
- *Capitalize amounts that the investor is entitled to remit*
- *Send abroad the net profits generated by the investment*
- *Repatriate capital when the investment is sold, the company is liquidated, or capital is reduced*

KEY INSIGHT

Colombia offers stability to foreign investors. The conditions for returning the investment and remitting profits in place at the time the investment is registered may not be changed to the detriment of the investor, except for an exception linked to a drop in the country's international reserves below three months of imports.

2.2.5. Contingencies and mitigation

When can an investment registration be canceled ex officio?

Authorities may order the cancellation of an investment registration in serious situations such as:

- *Registering an investment that never actually materialized*
- *Investing in prohibited sectors or without the required authorizations*
- *Registering something as an investment when it was not actually an investment*
- *The business or transaction that gave rise to the investment is unlawful*

Please note! If the registration is canceled for these reasons, any remittance abroad must be made under the category of "Other concepts," which may have additional implications that should be assessed at the relevant time.

Changes in registration information

Investment registration information may be corrected. There are different procedures depending on the type of correction:

- *Some minor corrections can be transmitted directly in the system*
- *Others require a specific correction procedure for declarations*
- *More complex changes require a Special Request before the Colombian Central Bank*

2.2.6. Information to authorities

The Superintendency of Corporations is the authority in Colombia that may exercise investigative and sanctioning powers for non-compliance with the investment regime. Penalties may reach up to 200% of the value of the transaction, and the authority will always take into account criteria of gradation, proportionality, and recidivism when estimating the fine.

National Directorate of Taxes and Customs is not the competent authority in matters of investment in Colombia. However, it commonly requests information about when the relevant investment was or is associated with foreign trade transactions.

All investment information is available to these entities. For that reason, registrations must be accurate and complete.

3. GENERAL OVERVIEW OF REAL ESTATE INVESTMENT IN COLOMBIA

As of 2026, real estate in Colombia remains a solid and strategic investment alternative. The Colombian real estate market has historically demonstrated resilience in the face of economic cycles, preserving capital value even in inflationary contexts and generating recurring income streams for investors.

The 5 most relevant aspects that a foreign investor should be aware of regarding real estate investment in Colombia are the following:

a. *In Colombia, privately owned real estate assets generally constitute economically valuable assets over which individuals and legal entities may exercise in rem rights, and which may be traded in the market through various types of transactions.*
b. *Under the Colombian legal system, private property is constitutionally guaranteed pursuant to the Political Constitution of Colombia. However, this right is not absolute, as the Constitution assigns to property a social function that entails obligations, as well as an ecological function inherent to its exercise. Consequently, for reasons of public utility or social interest, the State may decree expropriation—either through judicial proceedings or by administrative action—provided that prior compensation is paid and due process is guaranteed.*
c. *Colombia has a public property registry system (Registro de Instrumentos Públicos), which constitutes a public service entrusted to the State. Through this system, real estate transactions involving the transfer of ownership rights (derecho de dominio) or the creation of other in-rem rights over immovable property must be duly recorded. This system operates through the real estate registry records known as folios de matrícula inmobiliaria, in Spanish, which contain the complete legal history of each property in Colombia. Its purpose is to provide public notice and confer evidentiary effect upon public deeds and other recordable instruments executed in respect of real estate.*
d. *The legal framework governing the acquisition of real estate in Colombia establishes the same legal regime for nationals and foreign investors. The only exception is that foreign nationals may not acquire real estate located in border areas when such property originates from vacant lands (baldíos, in Spanish).*

3.1. Due Diligence in the Context of Real Estate Transaction

Prior to making a real estate investment in Colombia, it is advisable to conduct a due diligence process in respect of the asset subject to the transaction. Real estate due diligence constitutes a diagnostic review of the property in which the investment is intended to be made, carried out by experts for the purpose of issuing a legal opinion on the relevant legal aspects of the transaction.

Properly conducted due diligence constitutes a fundamental input for the drafting of the transaction documents, as it allows the parties to: **(i) make an informed decision regarding the advisability of the investment; (ii) determine an appropriate purchase price reflecting the true value of the asset; (iii) clearly define the parties' obligations; (iv) structure the representations, warranties and indemnities regime; and (v) effectively allocate and mitigate the identified risks.**

In real estate matters, a due diligence process should include, at a minimum, the following components:

e. ***Title Search (Estudio de Títulos):*** *This review comprises the examination and analysis of the Certificate of Conveyance and Good Standing (certificado de libertad y tradición) of the property subject to the investment, as well as the acts and documents recorded in its corresponding real estate registration folio (folio de matrícula inmobiliaria). Its purpose is to verify current ownership and the acquisition title, confirm that the chain of titles is free from gaps or contingencies that could affect the ownership right (derecho de dominio), and identify the existence of liens, encumbrances, limitations, or other burdens that may affect or even prevent the contemplated transaction.*

f. ***Urban Planning Analysis (Análisis Urbanístico):*** *This review comprises the examination and analysis of the urban planning conditions applicable to the property, as well as the relevant zoning and land use regulations. Its purpose is to determine the feasibility of assigning to the property the intended use or developing it as projected. To that end, the applicable urban planning regulations must be analyzed, including land classification, zoning designation, permitted uses and use intensity, buildability coefficients, development rights, urban development obligations (cargas urbanísticas), and other requirements associated with the intended use. Within the scope of this review, the following should be examined, among others: (i) the municipal Master Plan (Plan de Ordenamiento Territorial – POT) in force in the municipality where the property is located; (ii) any urban planning and construction permits previously granted in respect of the property; and (iii) official land use certificates or zoning opinions issued by the competent authorities.*

Additionally, the real estate due diligence process must be structured and conducted in light of the specific characteristics of the asset in question. For example, in the case of rural properties, the analysis must be particularly rigorous and include, among other matters: (i) verification of the property's private or vacant lands (baldíos) origin; (ii) determination of its current legal nature; (iii) compliance with the requirements set forth in

Law 160 of 1994 to evidence private ownership; (iv) the existence or potential initiation of special agrarian proceedings, such as ownership clarification proceedings or the recovery of improperly occupied vacant lands (baldíos); (v) its location within micro- or macro-prioritized areas in the context of the internal armed conflict; (vi) its possible inclusion in the Registry of Dispossessed and Forcibly Abandoned Lands (Registro de Tierras Despojadas y Abandonadas Forzosamente); (vii) the existence of land restitution proceedings; and/or (viii) the potential initiation of asset forfeiture proceedings (extinción de dominio) within the framework of the Justice and Peace Law (Ley de Justicia y Paz), among other relevant considerations.

KEY INSIGHT

A good practice before considering a real estate investment in Colombia is to seek legal advice and conduct due diligence.

3.2. Preliminary Dealings in Real Estate Transactions

In real estate transactions, the preliminary dealings stage is the phase during which the parties engage in initial discussions, exchange the information necessary to evaluate and decide whether to enter into a future agreement, and establish the basis of the negotiation. The most common preliminary arrangements in the context of real estate negotiations are the following:

a. ***Letters of Intent:*** *These are unilateral instruments by which the sender communicates to the recipient its intention to engage in preliminary discussions in order to explore the possibility of entering into one or more contracts. Their form and minimum content are not specifically regulated by statute, and they may contain either revocable or irrevocable offers or invitations to negotiate. The binding effect of letters of intent must be assessed on a case-by-case basis, in order to determine whether the sender had the intention to create legally binding obligations.*
b. ***Non-Disclosure Agreements:*** *These are agreements pursuant to which one or all negotiating parties undertake to maintain secrecy or confidentiality with respect to confidential information received in connection with the contemplated transaction. Such documents typically define: the information deemed confidential, the permitted use thereof, the conditions of access, the duration of the confidentiality obligation, and the consequences of its breach. They may include obligations that survive the termination of negotiations, such as the return or destruction of the information received.*
c. ***Memorandums of Understanding:*** *These are pre-contractual documents containing preliminary agreements on one or more aspects of the negotiation process or*

the future contract. They may address the fundamental terms of the transaction, the rules governing the negotiation process, or other preparatory matters, such as a commitment to maintain a proposed price or to obtain the required permits. Whenever a memorandum of understanding sets forth binding commitments, it gives rise to a legal transaction (pre-contract) that is bilateral or multilateral, binding, autonomous, and atypical under Colombian law. Accordingly, the parties must comply with the agreed terms and continue negotiating in good faith the remaining outstanding matters until determining whether or not to execute the definitive agreement.

Pursuant to Article 863 of the Colombian Code of Commerce, negotiating parties are subject to the duty to act in good faith and without fault (buena fe exenta de culpa) during the pre-contractual stage, which requires them to act with loyalty and fairness throughout all phases of the contract formation process.

Under Colombian law, a breach of the foregoing gives rise to pre-contractual liability (culpa in contrahendo). Civil liability is deemed pre-contractual when, during the negotiations preceding the execution of a contract, one party causes damage to the other by terminating the negotiations in an abusive, unjustified, or abrupt manner, thereby frustrating the legitimate reliance interest created. Pre-contractual liability may also arise more generally from the breach of duties inherent to this stage, including: **(i) confidentiality; (ii) disclosure and information; (iii) the duty of care toward the negotiating parties; (iv) protection and preservation; and (v) seriousness of intent.**

PRACTICAL INSIGHT

In order to protect the transaction, it is important to enter into a prior agreement that allows access to information and, to some extent, commits both parties to rights and obligations.

3.3. Principal Contractual Structures in Real Estate Transactions

In Colombia, the rights that private parties hold over real estate may be traded in the market through various legal structures, whether to transfer ownership or to grant rights of use and enjoyment. The principal contractual arrangements through which real estate transactions are structured in Colombia are the following:

a. ***Promise Agreement:*** *This is a preparatory agreement by which two or more parties undertake to execute a subsequent or definitive contract upon the expiration of a term or the occurrence of a condition. It gives rise to an obligation to do, consisting of the execution of the promised contract. Its essential elements are: (i) it must be executed in writing; (ii) the promised contract must not be one declared ineffective by law; (iii) it must contain a term or condition establishing the time for execution of the* *definitive agreement; and (iv) the contract must be determined in such a manner that, for its formation, only the act of transfer (tradición) or the corresponding legal formalities remain pending.*

b. ***Sale and Purchase Agreement:*** *This is the agreement by which the seller undertakes to transfer an asset and the purchaser undertakes to pay a price in money therefor. Although, as a general rule, a sale is deemed perfected once the parties have agreed on its essential elements—namely, the asset and the price—under Colombian law the sale of real estate is a solemn agreement and is perfected upon execution of the corresponding public deed.*
Furthermore, with respect to real estate, in order for the transfer of ownership (derecho de dominio) to be effective, the public deed of sale must be registered with the Public Registry Office (Oficina de Registro de Instrumentos Públicos) of the municipality in which the property is located. For such purposes, it should be noted that under the civil law regime, registration of the title is required for the transfer of ownership, whereas under the commercial law regime, in addition to registration, material delivery of the property is also required.

c. ***Commercial Trust Agreement:*** *This is an agreement whereby a person, referred to as the trustor (fideicomitente), transfers one or more specific assets to another, known as the trustee (fiduciario), who undertakes to manage or dispose of such assets in order to fulfill a specific purpose determined by the trustor, for the benefit of the trustor or of a third party known as the beneficiary. Through a commercial trust agreement, an autonomous trust (patrimonio autónomo) is created, which remains legally separate from the assets of the parties.*
The commercial trust has been the most widely used structure in recent decades for the development and acquisition of real estate in Colombia. The most common types of real estate commercial trusts are described below:

- ***Real Estate Administration and Payment Trust:*** *Under this structure, one or more properties are transferred to the autonomous trust—without prejudice to the possible transfer of additional properties or funds—so that the trustee manages the real estate project, makes payments associated with its development in accordance with the instructions set forth in the trust agreement, and transfers the resulting real estate units to the beneficiaries under the respective agreement.*
- ***Real Estate Treasury Trust:*** *Its principal purpose is to entrust the trustee company with the investment and management of cash resources allocated to the execution of a real estate project.*
- ***Pre-Sales Real Estate Trust:*** *Under this modality, the trustee's principal obligation is to collect funds derived from the marketing and enrollment of prospective purchasers of units within a real estate project. In this case, the trustee receives the funds as a mechanism for participation in a specific project and administers and invests such funds while the conditions established for their allocation to the project's development are fulfilled. This modality may alternatively be structured as a*

fiduciary mandate (encargo fiduciario), which does not entail the creation of an autonomous trust.

- ***Security Trust:*** *Under this structure, one or more properties are transferred to the autonomous estate in order to secure obligations in favor of creditors, either through sale in the event of default or as a source of payment from operating cash flows.*

d. ***Lease:*** *This is an agreement whereby one party, the lessor, undertakes to grant to another party, the lessee, the use and enjoyment of an asset for a specified term in exchange for a determined price as consideration. A lease agreement is consensual, meaning that it is perfected upon agreement between the parties regarding the asset and the price. In the case of real estate, it is particularly relevant to regulate matters such as: (i) the form of payment of rent and its adjustments; (ii) delivery date and conditions; (iii) term, extensions, and renewals; (iv) the regime applicable to repairs and improvements, among others.*
While lease agreements may be used for all types of real estate assets and adapted to different projects, it should be taken into account that Colombian law contains special provisions applicable to urban residential leases set forth in Law 820 of 2003 and to commercial premises leases regulated in Articles 518 et seq. of the Code of Commerce.

e. ***Commercial Space Concession Agreement (Contrato de Concesión Mercantil de Espacio):*** *This is an atypical agreement under which one party, the grantor, authorizes another, the concessionaire, to use and commercially exploit physical spaces within its commercial establishments, under the grantor's supervision or control, so that the concessionaire may benefit from the grantor's clientele and reputation.*
Unlike a lease agreement—where the location of the leased property is of primary importance to the lessor—in a commercial space concession agreement, the relevant factor is the commercial advantage derived by the concessionaire from marketing its own products within the grantor's establishment.

Depending on the business model, expected length of stay, volume of operations to be conducted in Colombia, and level of participation in the project, determine the agreement that best suits the transaction.

3.4. Cross-Cutting Clauses Applicable to Real Estate Transactions

In order to safeguard the interests of investors seeking to acquire real estate assets in Colombia, it is advisable to consider the following cross-cutting clauses, which are generally applicable to all agreements through which real estate transactions are structured:

a. ***Representations and Warranties Clauses:*** *Representations and warranties consist of statements made by the parties, on a reciprocal basis, regarding matters related to the agreement, to themselves, and particularly to the asset subject to the transaction. They incorporate factual assertions and legal statements into the contract and operate as a mechanism for risk allocation between the parties. In a real estate transaction, the most comprehensive representations and warranties are typically* *those granted by the property owner, who possesses the most complete information regarding the asset, as supplemented by the findings of the due diligence process.*

b. ***Indemnity Clauses:*** Indemnity clauses are contractual provisions that give rise to an obligation to indemnify upon the occurrence of the conditional events set forth therein. Colombian commercial law does not prohibit the inclusion of such clauses pursuant to the principle of freedom of contract (autonomía de la voluntad privada); however, they are subject to the limits imposed by mandatory rules, public policy, good morals, and the prohibition of abuse of rights.

c. ***Penalty Clauses (Cláusula Penal):*** *A penalty clause is a provision whereby a party, in order to secure performance of an obligation, undertakes to pay a stipulated penalty in the event of non-performance or delay in the performance of the principal obligation. Article 1594 of the Civil Code provides that, prior to the debtor being declared in default, the creditor may only demand performance of the principal obligation; after default, the creditor may elect either the penalty or performance of the principal obligation. In order to claim both the penalty and additional damages simultaneously, an express agreement to that effect is required.*

d. ***Force Majeure Clauses:*** *Force majeure clauses establish that a party shall be released from liability if events beyond its control prevent it from performing its contractual obligations. Under Colombian law, case law has established that, for an event to qualify as force majeure, it must be: (i) unforeseeable; (ii) irresistible; and (iii) external to the obligor. Such qualification must be made on a case-by-case basis, taking into account the specific circumstances of time, manner, and place.*

3.5. Urban Planning Permits for the Development of Real Estate Projects

In Colombia, the development of real estate projects requires the obtaining of urban planning permits (licencias urbanísticas), which are administrative acts issued by the competent municipal urban planning authority. These permits specifically authorize activities such as urbanization and parceling of land, construction, expansion, modification, adaptation, structural reinforcement, restoration, reconstruction, enclosure, and demolition of buildings, as well as the intervention and occupation of public spaces, and the subdivision of land.

The issuance of urban planning permits entails the acquisition of development and construction rights under the terms and conditions set forth in the respective administrative acts and includes specific authorization regarding land use and exploitation.

The main types of urban planning permits that must be considered for the development of real estate projects in Colombia are as follows:

a. ***Urbanization Permit:*** *This authorization allows one or more plots of land to be prepared for urban development through the execution of infrastructure works, public dedications, and other measures necessary to make the land suitable for future construction. Urbanization permits establish the general regulatory framework regarding land use, buildability, volumetrics,* *accessibility, and other technical aspects on the basis of which construction permits will be issued for the resulting plots.*

b. ***Parceling Permit:*** *This authorization allows rural or suburban plots to be divided, with the adaptation of roads and public or private spaces, in order to allocate the resulting lots for residential, recreational, or productive uses, while still requiring a construction permit to build.*

c. ***Subdivision Permit:*** *This is the prior authorization to divide plots located in rural, urban, or urban expansion areas, in accordance with the Planning Instrument of the Municipality (generally a Plan de Ordenamiento Territorial – POT) and the applicable regulations.*

d. ***Construction Permit:*** *This is the prior authorization to carry out building works, circulation areas, and communal zones on one or more parcels, specifically defining the permitted uses, buildability, volumetrics, accessibility, and other technical aspects of the works. Its main modalities include new construction, expansion, adaptation, modification, restoration, structural reinforcement, demolition, reconstruction, and enclosure, each corresponding to a different type of intervention on the property.*

e. ***Public Space Intervention and Occupation Permit:*** *This prior authorization allows the holder to occupy or intervene in public property within public spaces.*

3.6. Special Aspects of the Colombian Legal Framework

In Colombia, regulations implementing public policies aimed at (i) ensuring equitable access to rural property, (ii) providing redress to victims of the internal armed conflict, (iii) combating illicit activities, and (iv) protecting food security, among other objectives, can significantly affect the structuring and legal viability of investments in rural real estate. Consequently, prior to executing a real estate transaction involving a rural property, it is important to consider the following aspects:

a. ***Regulation of Vacant Lands (Baldíos):*** *In Colombia, vacant lands (baldíos) are rural properties that have not left the patrimony of the Nation and which the Constitutional Court has classified as fiscal assets subject to adjudication, intended to be transferred to those who meet the requirements to access agrarian reform. Due to their public nature, these lands are inalienable, imprescriptible, and not subject to attachment. Consequently, they may only be acquired through adjudication by the National Land Agency (Agencia Nacional de Tierras); only upon such adjudication do they become private property capable of being transferred between private parties, subject to legal restrictions regarding maximum appropriable area per person or entity, minimum lot size, and other obligations arising from the law and the respective adjudication act.*
In this context, within the due diligence process for rural properties, it is essential to verify whether the property originates as vacant land (baldío) and whether the

legal requirements to establish private ownership are met, namely: (i) the existence of a valid state adjudication; or (ii) registration of conveyance titles properly executed between private parties prior to 1974. Such verification mitigates the risk that the property may be subject to special agrarian proceedings—such as ownership clarification or recovery of improperly occupied vacant lands (baldíos)—and, more generally, contingencies arising under the vacant lands regime.

b. ***Land Restitution:*** *Within the context of Colombia's internal armed conflict, Colombian law recognizes the right of victims to seek redress for violations and acts that forced them to abandon or transfer their properties, as well as guarantees of non-repetition. One of the main mechanisms provided under this legal framework is the legal and material restitution of lands that were legitimately occupied prior to dispossession or forced abandonment. Initially, the law established a ten-year term for the submission of restitution claims; however, the Constitutional Court determined that, absent legislative extension, this mechanism would be applicable until 2030.*
Consequently, within the due diligence process for rural properties, it is essential to verify: (i) whether the property is located in micro- or macro-prioritized areas in the context of the armed conflict; (ii) whether the property is included in, or subject to requests for inclusion in, the Registry of Dispossessed and Forcibly Abandoned Lands (Registro de Tierras Despojadas y Abandonadas Forzosamente); and/or (iii) whether land restitution proceedings have been initiated with respect to the property. Such verification mitigates the risk that the property may be subject to restitution to victims of the internal armed conflict in the future, which could result in the loss of ownership by the current titleholder at the time of restitution.

c. ***Asset Forfeiture (Extinción de Dominio):*** *Under Colombian law, asset forfeiture is a patrimonial consequence arising from illicit activities or conduct that severely affects public morals, consisting of a judicial declaration of ownership of certain assets in favor of the State, without compensation for the affected party, when any of the causes established by law are present. Although this mechanism may apply to all types of assets, it is particularly relevant in the context of rural properties and the internal armed conflict, given the risk that such properties may be directly or indirectly linked to illicit activities or to organized armed groups operating outside the law.*
In this regard, Law 975 of 2005, known as the Justice and Peace Law (Ley de Justicia y Paz), introduced transitional justice mechanisms aimed at the demobilization of such groups and the redress of victims, establishing the obligation to transfer illicitly acquired assets to fund the Victims' Compensation Fund. Pursuant to this law, the Attorney General's Office is authorized to identify, locate, secure, and initiate asset forfeiture proceedings over assets of postulated individuals, third parties, or those identified in its investigations linked to crimes committed by organized armed groups operating outside the law. This constitutes a critical aspect to evaluate in the due diligence of rural real estate assets.

d. ***Food Production Protection Areas***

(APPA): *Food Production Protection Areas (Áreas de Protección para la Producción de Alimentos – APPA) are zones within the national agricultural frontier that must be preserved for food production and constitute a key element of land use planning with superior regulatory hierarchy. According to the National Development Plan, they are areas of special interest to safeguard the human right to food and enjoy enhanced protection by the State.*
Declared by the Ministry of Agriculture and Rural Development, APPAs represent a national government effort to guarantee food production, particularly in territories with fertile soils and an agricultural tradition. However, some argue that these declarations override municipal autonomy to define land use, by allocating hectares—sometimes with competing real estate or other interests that could degrade the soil—exclusively for agricultural purposes. Once an APPA is declared, all land uses inconsistent with the APPA's purpose and that could reduce productive land for food are prohibited, making their review a critical element in any due diligence process.

3.7. Procedures and Costs Associated with the Transfer of Real Estate in Colombia

Under Colombian law, the transfer of ownership (derecho de dominio) of a property occurs through: (i) the execution of a Public Deed (Escritura Pública) before a Notary; and (ii) the registration of such Public Deed with the Office of Public Instruments Registry (Oficina de Registro de Instrumentos Públicos) in the municipality where the property is located.

In Colombia, costs related to the transfer of real estate may vary depending on the type of transaction and the property's location. In the case of a sale and purchase (compraventa), the approximate costs are as follows:

a. ***Notarial Fees:*** *For the exercise of notarial functions, the parties to a sale and purchase transaction must pay a notarial fee equivalent to 3‰ (3 per thousand) of the transfer value. In practice, this fee is typically shared equally, with 50% paid by the buyer and 50% by the seller.*

b. ***Registration Fees:*** *For the exercise of registration functions, the parties must pay registration fees according to a scale based on the transaction value. For transfers with a value equal to or exceeding COP 471,999,702 (approximately USD 116,000), the applicable fee is 1.27% of the transfer value. In practice, this fee is generally paid entirely by the buyer.*

c. ***Registration Tax:*** *The registration tax is levied on the registration of acts or contracts subject to registration with the Offices of Public Instruments Registry. In the case of a real estate sale, the tax base may not be less than the cadastral appraisal or self-assessed value of the property, and the applicable rate ranges between 0.5% and 1%, as determined by the Departmental Assembly upon the Governor's initiative.*

d. ***Stamp Duty (Impuesto de timbre):*** *Stamp duty is triggered when a transfer of real estate—regardless of title—is formalized in a public deed and the property value exceeds COP 1,047,480,000 (approximately USD 258,000). The duty payable* *ranges from 1.5% to 3% of the property value. If the property value is below this threshold, the tax is levied at a 0% rate.*

3.8. Taxes Related to Real Estate Ownership in Colombia

a. ***Property Tax (Impuesto Predial):*** *This tax arises from the mere existence of the property. It is collected by municipalities and districts, which are responsible for its administration, collection, and oversight. The tax is calculated based on the cadastral valuation (avaluó catastral) of the property and is levied annually.*

b. ***Urban Delineation Tax (Impuesto de Delineación Urbana):*** *This municipal or departmental tax is linked to the construction cost per square meter and is triggered by the construction of new buildings or the renovation of existing ones. Payment becomes due at the time construction permits are issued for the following types of works: new construction, expansion, modification, and adaptation.*

c. ***Surplus value tax (plusvalía):*** *It is a tax created because of the activities carried out by the authorities that are intended to increase the use of the land, and that allow the land use of the property to be more profitable. The surplus value tax becomes enforceable at the time urban licenses are issued or at the time additional construction rights are granted through other documents. This tax becomes enforceable when transferring ownership of properties. Although the surplus value tax should be registered on the ownership certificate of the property, the registry is not always made.*

d. ***Betterment levy (valorización):*** *The betterment levy is a tax that should be paid as a result of the benefit that the execution of public works by the government generates to a property. This is recorded in the Ownership Certificate of the property and must be paid before making any transfer of ownership. The entity that executes the work will oversee the collection of the tax, and such collection may be carried out in different payments.*

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