Global Financial Services Regulatory Guide - Colombia

6. What is the process for becoming authorized in your jurisdiction?

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# What is the process for becoming authorized in your jurisdiction?

(a) Offshore activities/products - representative office/correspondence agreement authorization

An applicant wishing to obtain authorization for promoting financial and/or capital market products/services must complete a formal process involving the completion of required application forms and the submission of supporting information.

In relation to timing, while the law does not set forth limits, in most cases, the regulator will take between three and six months from receipt of a completed application in which to determine whether or not to approve the application.

In general, the following documents will be required to be filed:

Certificate issued by the competent authority evidencing the: (i) legal existence; (ii) authorized representatives; and (iii) activities for which the entity is authorized in its own jurisdiction, as well as the initial and expiration dates of authorization (if applicable)

 Articles of incorporation and bylaws

 Authorization or consent issued by the competent authority for the promotion of services through a representative office

 Business plan, which must contain a description of the main activities that will be conducted in Colombia, including a description of planned marketing activities

 Documentation appointing an individual in Colombia as the representative of the office (issued by the corresponding corporate body or authority), together with such individual’s CV (containing sufficient evidence enabling determination of such individual’s moral character, knowledge and experience in the field)

 Consent for the disclosure of criminal records of the company and its directors

(b) Onshore activities/products – Article 53 Authorization

If an applicant wishes to carry out onshore regulated activities, an Article 53 Authorization most often will apply.

An applicant must complete a formal process to obtain authorization, involving the completion of required application forms and the submission of supporting information.

In relation to timing, in most cases, the regulator will have four months from receipt of a completed application in which to determine whether or not to approve the application (in practice, the filing process may take 12 months or more).

The requirements and complexity of an Article 53 Authorization may vary depending on the complexity of the activity to be carried out in Colombia and the nature of the entity to be set up. Nonetheless, the following three steps will generally apply:

a. Request, SFC approval and publication

This initial filing must include the following documents:

Draft bylaws of the future company

Proposed capital and form of payment

CVs of the proposed shareholders (if individuals)

CVs of the proposed company managers and directors1

Business study confirming the feasibility of the company, which must describe:

technological and administrative infrastructure

internal control mechanisms

risk management plan

Copy of the authorization issued by the corresponding regulator for the setting-up of the entity (if applicable)

Any additional information as may be requested by the SFC

After filing all required documents in due form, the SFC will publish twice in a Colombian newspaper a notice indicating that a request has been made for the set-up of the entity and basic information on the filing (name of entity, proposed capital, etc.). The purpose of the notice is to allow third parties to present objections to the authorization (which any interested party must file within ten days of each notice).

After the notices stage is terminated and all documents are complete, the SFC must decide on the requested authorization within four months. However, this term may be extended if the SFC asks further questions or complementary information. The SFC may deny authorization if it finds that the filing does not meet legal requirements or if it considers that the character, responsibility, suitability and capital solvency of the shareholders have not been satisfactorily proven.

b. Incorporation

After the SFC issues its approval, the shareholders must incorporate the company (i.e., sign the corresponding public deed before a Colombian notary public and register the company in the corresponding chamber of commerce), within the term set forth by the SFC.

However, the entity may not yet start to operate.

c. Authorization to operate

Finally, the newly created entity must provide evidence to the SFC of compliance with the following:

Due incorporation

Payment of regulatory capital

Readiness of technical and operational infrastructure

Upon confirmation, the SFC must issue the authorization certificate within the following five days. The company may not start business operations until after the SFC issues such certificate.

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[[1]](https://resourcehub.bakermckenzie.com/en#9982/Chapters%20for%20uploading%20to%20DP%20for%20FSR%20Guide%202019/Colombia%20Global%20FSR%20Guide%202019.docx) Must sufficiently reflect their character, responsibility and suitability.

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