
OFFICIAL GAZETTE, YEAR CXXXVI.
NO. 44,205 - 25 OCTOBER 2000.
PAGE 29
**DECREE NO. 2080 OF 2000 AND ITS
AMENDMENTS
(18 OCTOBER)**

"ESTABLISHING THE PROVISIONS GOVERNING INVESTMENT OF
FOREIGN CAPITAL IN COLOMBIA AND COLOMBIAN CAPITAL
ABROAD."

The President of the Republic of Colombia, in exercise of his constitutional and legal powers, particularly those conferred in Article 189, number 11 of the Constitution, Article 15 of Statute 9/ 1991 and Article 59 of Statute 31/ 1992, and on the recommendation of the Economic and Social Policy Council (CONPES),

HEREBY DECREES:

TITLE I
SCOPE OF APPLICATION

Article 1. **Provisions on International Investments.** This decree constitutes the rules of the Republic of Colombia on international investments and regulates, in its entirety, the treatment of foreign capital investment in Colombia and Colombian investments abroad.

All regulations on international investment shall adhere to the provisions contained in this decree, without prejudice to the terms and conditions set forth in treaties or international agreements that are in effect.

Consequently, the following are considered international investments subject to this decree:

- a) foreign capital invested within the territorial bounds of the Republic of Colombia, including Colombian duty free zones, by persons who are not residents of Colombia; and
- b) investments by a resident of the country made abroad or in a Colombian duty-free zone.

A resident is understood as established in Article 2 of Decree 1735/ 1993 and any others that might amend or add to it.

TITLE II GENERAL PROVISIONS GOVERNING INVESTMENT OF FOREIGN CAPITAL IN COLOMBIA

CHAPTER I GENERAL PRINCIPLE AND DEFINITIONS

Article 2. **Principle of equal treatment.** Investment of foreign capital in Colombia shall be treated, for all purposes, the same as an investment by resident nationals.

Consequently, and without prejudice to the terms stipulated in special regulations, no discriminatory conditions or treatment that place investors of foreign capital at a disadvantage compared to resident national investors may be established, nor may investors of foreign capital be afforded more favorable treatment than that afforded to resident national investors.

Article 3. **Definitions of foreign capital investments.** These include direct foreign capital investments and portfolio investments.

a) The following are considered to be direct investments:

i) Investment in ownership interest, stocks, shares of limited liability companies, capital contributions or mandatory convertible bonds;

ii) Investment in options or interest in fiduciary arrangements with trust companies that are subject to supervision and oversight by the Colombian Financial Services Authority, the purpose of which is not that indicated in letter b) of this article;

iii) Investment in real estate, either directly or through participation in trust agreements, or as a result of a real estate securitization process for a building or for construction projects:

iv) Investments made by the investor through legal documents or contracts, such as those for collaboration, concession, management services, licensing or technology transfer, provided such investments do not represent an ownership interest in the company and the income the investment generates for the holder of the investment is dependent on the profits of the company;

v) Investments supplementary to capital assigned to the branches;

vi) Investment in the private equity funds referred to in Title Fourteen, Book One, Part Three of Decree 2555/ 2010 or any rules that might amend or replace it.

b) A portfolio investment is regarded as an investment in securities listed in the National Register of Securities and Issuers (RNVE, Spanish acronym), in shares of mutual funds, and in securities listed in foreign trading systems.

Paragraph. 1— Loans and operations that involve debt do not constitute a foreign investment. It is a foreign exchange violation for residents of the country to contract foreign loans with foreign currency that has been declared as a foreign investment. In no case may the fiduciary arrangements referred to in ordinal ii) of letter a) in this article be intended to extend loans to residents or non-residents, or to serve as a way to avoid compliance with the exchange regulations adopted by the Board of Directors of Banco de la República (the Central Bank of Colombia), including those relative to foreign borrowing.

Paragraph. 2 — For the effects of this decree, a company is understood as stipulated in Article 25 of the Commercial Code, as are partnerships or corporations, non-profit organizations and entities of a cooperative nature.

Amended by Decree 4800 of 29 December 2010, Article 1. Official Gazette 47,937 dated 29 December 2010.

Article 4. **Investor of foreign capital.** An investor of foreign capital is any person or legal entity, or stand-alone trust, who is the holder of a foreign direct investment or portfolio investment under the terms of this decree.

Amended by Decree 4800 of 29 December 2010, Article 2. Official Gazette 47,937 dated 29 December 2010.

CHAPTER II TYPES

Article 5. **Types.** Foreign capital investments may be of the following types, among others:

- a) Imports of freely convertible currency for investments in domestic currency;
- b) Imports of tangible assets such as machinery, equipment or other physical assets contributed to the capital of a company, such as non-reimbursable imports. This also includes goods admitted to a duty-free zone and contributed to the capital of a company located in that zone;
- c) Contributions in kind to corporate capital consisting of intangibles such as technological contributions, trademarks and patents, under the terms of the Commercial Code;
- d) Resources in domestic currency, with right to remittance to the foreign capital investor, derived from exchange transactions to be channeled necessarily through the exchange market for direct or portfolio investments, as well as royalties derived from duly registered contracts.

Amended by Decree 4800 of 29 December 2010, Article 3. Official Gazette 47,937 dated 29 December 2010.

e) Resources in domestic currency obtained through local loan operations with lending institutions to purchase stocks through the public securities market.

Letter e) repealed by Decree 1844 of 2 July 2003, Article 10. Official Journal 45,238 dated 4 July 2003 (See the effective date noted at the end of the text).

Amended by Decree 4474 of 1 December 2005, Article 1. Official Gazette 46,109 dated 1 December 2005.

CHAPTER III DESTINATION, FORM OF APPROVAL AND REGISTRATION

Article 6. **Destination.** Pursuant to the provisions in this Decree, an investment of foreign capital may be made in all sectors of the economy, either directly or through another person, except in the following:

- a) defense and national security activities; [and]
- b) processing, dumping and disposal of toxic, hazardous or radioactive waste not produced in the country.

See Decree 356/ 1994 on the Surveillance and Private Security Statute, Article 12.

Paragraph (REPEALED) In any case, the National Economic and Social Policy Council (CONPES) shall identify areas of economic activity for the government to determine if investment of foreign capital is admissible therein.

Paragraph repealed by Decree 2466 of 29 June 2007 - Article 4. Official Gazette 46,675 dated 30 June 2007.

Article 7. **Authorization.** Except as provided for in special regulations contemplated in this decree, permission is not required to make a foreign investment.

Article 8. **Registration.** The foreign capital investor, or whoever may represent his or her interests, shall register initial or additional investments with Banco de la República, doing so in accordance with the procedure established by said entity and pursuant to the following terms:

a) Foreign direct and foreign portfolio investments are to be registered by presenting the respective exchange form used to channel the foreign currency through the exchange market.

b) In the case of foreign portfolio investments, the payments associated with such investments may be subject to netting, notwithstanding the fact that the investment is to be registered for the total amount, pursuant to the terms and conditions established by Banco de la República.

Banco de la República may establish the terms and conditions for registering a foreign investment made to implement or operate local or foreign investment funds traded on stock exchanges, known internationally as exchange traded funds (ETF's), and programs concerning negotiable certificates of deposit representing securities, including the registration of foreign investment operations necessary to constitute and redeem securities or shares issued by the aforementioned funds or by such programs.

c) All other types of foreign capital investment are to be registered within no more than twelve (12) months as of the time the investment is made. Said registration shall obey the terms and conditions set by Banco de la República.

d) In the case of an investment supplementary to the assigned capital of branches in the petroleum and mining sectors subject to special currency regulations established by the Board of Directors of Banco de la República, registration shall be accomplished through presentation of the respective request within the following six (6) months, as of the closing of accounts for the period during which the investment is made, as determined to that effect by Banco de la República.

e) Substitution of the original investment, which is understood as changes in the holders, in its destination, or in the company receiving the investment, shall be registered with Banco de la República. Said registration is to be accomplished within no more than twelve (12) months, as of the time the substitution is made, and shall be done pursuant to the terms and conditions established by Banco de la República.

PARAGRAPH. 1— The sums paid by the investor to the recipient company in the form of additional paid-in capital are to be registered as a foreign investment. Should the company in question decide to distribute sums received as such, it shall inform Banco de la República to that effect, pursuant to whatever terms and conditions might be determined by said entity.

PARAGRAPH. 2— For purposes of ordinal v) of letter a) of Article 3 in this Decree, the branches of foreign companies may register, as a direct foreign investment, available capital in foreign currency that might remain in the current account kept with the parent company during the annual term to which its profits pertain, after demonstrating this fact to Banco de la República in accordance with the documentation it requires. The value in foreign currency of any such available resources is to be included in a special account listed on the balance sheet as additional investment in assigned capital and shall remain subject to the foreign exchange rules that apply to said assigned capital. In no case may the branches have negative balances for additional investment in assigned capital.

The foregoing does not apply to branches of foreign companies in the oil and mining sectors subject to special currency regulations established by the Board of Directors of Banco de la República. They are allowed to carry on their books, as an additional investment in assigned

capital, not only available capital in foreign currency, but also available assets in the form of goods or services. These branches are allowed to have negative balances for additional investment in assigned capital.

PARAGRAPH 3—Banco de la República, in accordance with the provisions in this decree, may establish special registration procedures, taking into account the transaction mechanisms used.

PARAGRAPH 4—Banco de la República shall not register investments made in breach of the provisions in this decree.

Nor shall it register investments when the interested party fails to present the exchange form used to channel foreign currency through the exchange market, as an investment.

PARAGRAPH 5— Failure to register a foreign investment at the proper time and according to the terms in which it should be registered constitutes an exchange violation.

PARAGRAPH 6— Banco de la República may request, within the period it deems appropriate, an update of the information it considers necessary to monitor the registration of foreign investment in Colombia.

Amended by Decree 4800 of 29 December 2010 - Article 4. Official Gazette 47,937 dated 29 December 2010.

Temporary rules on registration of direct foreign investments, portfolio investments and Colombian investments abroad

a) The registration of foreign investments made in Colombia through the import of foreign currency for the following transactions, with the respective exchange form having been presented prior to the date this decree takes effect:

- i) Investment in options in stand-alone trusts constituted through a mercantile trust agreement, whether to develop a company or to purchase, sell and manage shares in companies that are not listed on the National Registry of Securities and Issuers.
- ii) Investments made by the investor through legal documents or contracts, such as those involving collaboration, concession, management services, licensing or technology transfer, provided they do not represent an ownership interest in the company and the income the investment generates for the holder of the investment is dependent on the profits of the company;

Said registration is to be accomplished as follows:

- i) If the period for requesting registration is in effect or has an authorized extension and no registration request has been filed with Banco de la República, the investment shall be

understood as registered on the date the respective exchange form to channel the investment through the exchange market is presented.

ii) If the documentation has been filed with Banco de la República or the term for requesting registration has expired, investors of foreign capital may register the investment provided the foreign currency was declared as a foreign investment when it entered the country and has actually been invested in Colombia, pursuant to the terms and conditions established by Banco de la República.

b) The registration of contributions made through the other types of foreign capital investment, be they direct or portfolio investments and Colombian investments abroad, prior to the effective date of this decree shall be done in accordance with the terms and procedures established by Banco de la República.

Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 9 **Impromptu registration.** Without detriment to the provisions in Decree-Statute 1746/ 1991 and any other rules that might replace or add to it, investors of foreign capital who have not registered their investments by the established deadlines may do so, provided:

a) The foreign capital [in question] was declared as a foreign investment when it entered the country;

b) The foreign capital [in question] has actually been invested in the country.

Paragraph: Without precluding the respective penalties, in the case of entities subject to supervision by the Banking Authority, in those instances where foreign currency has not been declared as a foreign investment, the respective registration may be obtained provided it is demonstrated, in due form, that the currency was used directly and exclusively for the primary acquisition of ownership interest, shares or stocks, as well as mandatory convertible bonds.

CHAPTER IV

EXCHANGE RIGHTS AND OTHER GUARANTEES

Article 10. **Exchange rights.** Investments of foreign capital made pursuant to the provisions in this statute entitle the holder of the investment to:

a) Reinvest profits or retain them as surplus undistributed profits with remittance rights;

b) Capitalize amounts with remittance rights originating with obligations derived from the investment;

c) Remit abroad, in freely convertible currency, proven net profits generated regularly by the investment, based on the balances at the end of each corporate fiscal year or on these and the legal document or contract governing the contribution in the case of direct investment, or based on the closing accounts of the respective fund manager in the case of a portfolio investment.

Amended by Decree 4800 of 29 December 2010 - Article 5º. Official Gazette 47,937 dated 29 December 2010.

d) Remit abroad, in freely convertible currency, amounts received as proceeds from sale of the investment within the country, or from liquidation of the company or portfolio, or from a reduction in its capital.

Letter d) amended by Decree 4210 of 14 December 2004 - Article 1. Official Gazette 45,762 dated 14 December 2004.

Letter d) amended by Decree 1940 of 13 June 2006 - Article 1. Official Gazette 46,298 dated 13 June 2006.

Letter d) amended by Decree 1801 of 23 May 2007 – Article 1º. Official Gazette 46,638 dated 24 May 2007. (This decree repeals Decree 2348/1993.)

Letter d) amended by Decree 3913 of 8 October 2008 - Article 1. Official Gazette 47,136 dated 8 October 2008.

Paragraph. (REPEALED). A direct investment must be maintained for at least two years, as of the date it was channeled through the exchange market. Consequently, the transfer of capital abroad, once the investment is liquidated, is allowed only after the aforementioned deadline has passed.

Notwithstanding the foregoing, net profits from direct investments may be transferred abroad for periods under two years.

Expanded by Decree 1888 of 30 May 2008 - Article 1. Official Gazette 47,005 dated 30 May 2008

Repealed by Decree 3264 of 1 September 2008 - Article 4. Official Gazette 47,099 dated 1 September 2008.

Paragraph 2. (REPEALED) The provisions in this article shall be understood as without detriment to the terms and conditions contained in valid international treaties or agreements.

Expanded by Decree 1999 of 6 June 2008 - Article 2. Official Gazette 47,012 dated 6 June 2008.

Repealed by Decree 3264 of 1 September 2008 - Article 4. Official Gazette 47,099 dated 1 September 2008.

Related Provision Art. 3 of Decree 3264/ 2008

Article 3. **Transfers abroad of capital pertaining to prior direct investments.** With respect to direct investments made prior to the effective date of this decree, capital from liquidation of the same [sic] may be transferred abroad without being subject to the time frame stipulated in the first paragraph of Article 10, Decree 2080/ 2000, which was repealed by Article 4 of this decree.

Article 11. **Guaranteed Exchange Rights.** Stipulations on investment reimbursement and profit remittance that are in effect, under the law, at the time the foreign investment is registered may not be changed in a way that might adversely affect the investor, except temporarily when international reserves fall below three (3) months of imports.

CHAPTER V CLASSIFICATION OF INVESTORS AND COMPANIES

Article 12. **Classification of a natural person as a national investor.** It is the responsibility of Banco de la República to classify foreign nationals as national investors, if so requested, provided they are able to demonstrate their status as residents pursuant to Decree 1735/ 1993 or any others that might amend, replace or supplement it.

Article 13. **Sub-regional level.** The Ministry of Foreign Trade, at the request of the interested party, shall certify, as national investors, the investments of sub-regional origin whose title holders are national investors of Member Countries of the Cartagena Agreement, provided national investor status is accredited in the country of origin, through certification issued by the competent national authority of said country.

The terms national, sub-regional [and] foreign investor, national, mixed and foreign company, and Andean multinational company shall be defined as established in decisions 291 and 292 of the Cartagena Agreement or in decisions that might amend, replace or add to them.

Paragraph 1. The Ministry of Foreign Trade shall be the competent body for the purpose of classifying a company as national, mixed or foreign.

Paragraph 2. Foreign companies with a valid conversion agreement, under the terms of Chapter II, Decision 220 of the Cartagena Agreement, may ask the National Department of Planning to terminate said agreement.

CHAPTER VI

DISPUTE SETTLEMENT, SANCTIONS AND CONTROLS

Article 14. **Applicable law and jurisdiction.** Except as provided for in valid international treaties or conventions, the provisions in Colombia law shall apply to the settlement of disputes or conflicts arising from application of the rules on foreign capital investment.

With the same exception noted in the preceding section and without prejudice to any action that might be instituted in foreign jurisdictions, all matters related to foreign capital investments also shall be subject to the jurisdiction of Colombian courts and standards on arbitration, unless the parties have agreed to international arbitration.

Article 15. **Representation of foreign capital investors.** Investors of foreign capital shall appoint a legal representative in Colombia, pursuant to the terms established under Colombian law. In the case of a portfolio investment, the legal representative shall be the respective managing entity.

Investors and their legal representatives shall be jointly and severally liable for compliance with the registration requirements outlined in this decree.

Amended by Decree 4800 of 29 December 2010 - Article 6. Official Gazette 47,937 dated 29 December 2010.

Article 16. **Sanctions.** In the case of investments and legal acts leading to the establishment of companies in prohibited sectors or in an unauthorized manner, where necessary and without detriment to the provisions in the Commercial Code and other related regulations, the Office of the Superintendent of Corporations, in accordance with the functions assigned to it, shall order suspension and liquidation of the activity, in the first instance, and, in both instances, shall ask Banco de la República to cancel the registration, when appropriate. The foregoing is without detriment to the functions of the agencies responsible for supervision and oversight.

Any foreign capital investment made in violation of the provisions in this decree shall lack exchange rights and guarantees.

When the competent supervisory body determines foreign currency was declared as a foreign investment at the time it was channeled (sic), but was not actually invested in the country, Banco de la República shall proceed to cancel the registration.

Amended by Decree 1844 of 2 July 2003 - Article 6. Official Gazette 45,238 dated 4 July 2003. (See the effective date noted at end of the text.)

Article 17. **Control and supervision.** Control and supervision of compliance with the provisions set forth in this decree shall be the responsibility of the agencies or organizations established by law.

TITLE III SPECIAL RULES ON FOREIGN CAPITAL INVESTMENTS

CHAPTER I FINANCIAL SECTOR

Article 18 **Foreign interest.** Foreign investors may acquire an interest in the capital stock of financial institutions by subscribing or investing in shares, mandatory convertible bonds or corporate contributions of a cooperative nature, in any proportion whatsoever.

Foreign capital investments in the financial sector may be registered only after authorization has been obtained from the Banking Superintendent to constitute or organize and / or acquire shares of any financial institution, pursuant to the Fundamental Law on the Financial System and all other provisions whereby it might be amended.

Article 19. **Applicable general rules.** Investment of foreign capital in financial institutions shall be governed by the general provisions on the matter in all aspects not regulated under this title.

CHAPTER II HYDROCARBON AND MINING SECTOR

Article 20. **Special rules.** The general regime applicable to foreign capital investment in the hydrocarbon and mining sector shall be subject to the rules in this chapter, which, therefore, shall prevail, when appropriate, over those established by other provisions in this decree.

Article 21. **Applicable rules.** Foreign capital investment in the exploration and production of petroleum and natural gas, in hydrocarbon refining, transport and distribution projects, and in the exploration, production, processing and transformation of minerals shall be subject to compliance with the rules governing such activities, in particular and, as appropriate, those set forth in the respective contract between ECOPETROL and the foreign investor.

Article 22. **Registration.** Foreign investors shall register their investment as stipulated in this decree. Failure to comply with the provisions in this article shall be considered an exchange violation.

Banco de la República shall report monthly to the Ministry of Mines and Energy on the movement of foreign capital, identifying foreign investors, the company receiving the investment, the amounts and the types of investment registered.

Article 23. **Mining and hydrocarbon sectors.** Without prejudice to the provisions in Title II of this decree, the exchange rules for the hydrocarbon and mining sectors, including the exploration and production of petroleum, natural gas, coal, ferronickel and uranium, shall be subject to the regulations established by the Board of Directors of Banco de la República in keeping with its jurisdiction.

Amended by Decree 1844 of 2 July 2003 - Article 7. Official Gazette 45,238 dated 4 July 2003. (See the effective date noted at the end of the text.)

Article 24. (REPEALED) **Exchange rights for the mining sector.** Without detriment to mining contracts in effect and to the provisions set forth in the preceding article, the provisions in Title II of this decree shall apply to companies with foreign capital that invest in new projects for the exploration, production, processing and transformation of minerals, as well as to investment by technical service companies dedicated exclusively to the mining sector.

Repealed by Decree 1844 of 2 July 2003 - Article 10. Official Gazette 45,238 dated 4 July 2003. (See the effective date noted at the end of the text.)

Article 25. **Investments in different activities.** When the same company with an investment of foreign capital in the hydrocarbon and mining sector develops a range of economic activities within that sector to which different exchange rules might apply, it shall demonstrate to Banco de la República, in an exact manner, the profits generated in each accounting period from each of its activities, doing so through the use of approved accounting procedures that make it possible to identify fully the assets and liabilities and the investment pertaining to each of those activities. In such cases, neither assets nor liabilities common to the different activities shall be accepted.

CHAPTER III
**GENERAL RULES ON PORTFOLIO INVESTMENTS MADE WITH FOREIGN
CAPITAL**

Article 26. **Managers** All portfolio investments with foreign capital are to be made through a manager. Only brokerage firms, trust companies and investment management firms subject to supervision and oversight by the Colombian Financial Services Authority may do so. These entities shall have the following obligations, without detriment to others to be observed pursuant to the rules by which they are governed:

- a. Tax obligations;
- b. Exchange obligations;
- c. Obligations concerning information to be supplied to exchange authorities or to those responsible for supervision and oversight;
- d. Any others indicated by the supervisory and oversight authority in exercise of its powers.

Paragraph 1—In the case of transnational operations conducted in furtherance of securities exchange integration agreements, as referred to in Chapter II, Title Six of Book Fifteen in the second part of Decree 2555/ 2010, or whatever rule might amend or replace it, local central securities depositories shall comply with registration or information requirements, when appropriate, pursuant to the stipulations of Banco de la República and the Colombian Financial Services Authority.

Paragraph 2—In exercise of said management, the money market transactions referred to in articles 2.36.3.1.1, 2.36.3.1.2 and 2.36.3.1.3 of Decree 2555/ 2010 or in the regulations that might amend or replace them, may be conducted, or the guarantees required to that effect may be provided.

Transactions with financial derivatives also may be conducted, and the respective guarantees may be constituted.

By the same token, the guarantees required to execute transactions accepted by a central counterparty clearing house subject to supervision and oversight by the Colombian Financial Services Authority may be constituted, and the activities and commitments assumed with the members through which they take part in clearing and settlement may be conducted and fulfilled with such clearing houses, pursuant to the respective regulations.

To that end, they also shall be authorized to maintain the resources necessary to settle such transactions or to constitute and adjust the respective guarantees in current accounts, in savings accounts or through any other means authorized to that effect by the Colombian Financial Services Authority.

Amended by Decree 4800 of 29 December 2010 - Article 7. Official Gazette 47,937 dated 29 December 2010

Transition Treatment of Foreign Capital Investment Funds. Foreign capital investment funds authorized and operating pursuant to Article 26 of Decree 2080/ 2000, in effect up to the issue of this decree, may continue to operate according to the rules issued herein and with those governing the respective managing institutions subject to supervision and oversight by the Colombian Financial Services Authority.

Paragraph. —For tax purposes, it is understood that a change in the name of the investment vehicle produces no change whatsoever in respective applicable legal regulations. Therefore, the rules on foreign capital investment funds that continue to operate by virtue of the provisions in this article, as well as for those who are foreign investors, as described in Article 26 of Decree 2080/ 2000, shall be the rules established in Article 18-1 of the tax code, without detriment to other special provisions in the tax law.

Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010

Article 27. Definition of fund. For the effects of this decree, a foreign capital investment fund is understood as equity capital organized in any form, in Colombia or abroad, with resources provided by one or more foreign entities or foreign persons for the purpose of investing in the public securities market. Foreign capital funds may be institutional or individual. The following are institutional funds:

a) those established by a plurality of foreign persons or foreign entities, or those set up by a single foreign person or entity, with resources from the public or private sale of shares or interest abroad, and with the primary purpose of investing in one or more of the world's capital markets;

b) omnibus funds, which are those organized as joint accounts, without pro-indiviso

(undivided) interest in the equity of institutional investors, and are managed by international intermediaries.

Individual funds are funds of foreign nationals or legal entities whose main purpose is not to conduct transactions on capital markets, but to channel surplus cash for investment in capital markets in response to financial strategies.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 28. **Authorization.** Institutional funds may initiate operations in Colombia once the local manager files the documentation referred to in this article with the Securities Market Authority and obtains the respective tax identification number.

The local fund manager shall submit an application to the Securities Market Authority, accompanied by the following documents and information.

a) An electronic format or document issued by the international manager, or by whoever might be serving in that capacity, stating the countries where the investment fund is active, the entity exercising supervision and control over the international manager, if such be the case, and a copy of the contract for management and legal representation of the fund signed by the international manager and the local manager. The latter must attach the respective certificate of existence and legal representation.

b) Contracts on management and legal representation of funds in which there is no collective or undivided interest must demonstrate that the composition of the portfolio originates with purchase orders from institutional investors, subject to inspection, supervision or control in the respective country of origin.

The local manager of individual funds shall submit to the Securities Market Authority, at least five (5) days prior to the date on which the fund seeks to initiate operations in Colombia, information identifying the investors and the experience of the fund manager.

Failure to comply with all or part of the requirements brings about loss of authorization and the obligation to liquidate the fund during the period ordered by the Securities Market Authority. The respective remittance or transfer abroad shall be made during that lapse of time.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 29. **Registration and deposit.** A portfolio investment shall be registered in accordance with the provisions set forth in this decree and pursuant to the procedure established by Banco de la República, indicating the type of fund, the amount of the investment, the local manager and the sole purpose of the investment. Said registration will be in the name of the foreign national, in the case of individual funds, and in the name of the fund itself, in the case of institutional funds.

These investment funds and their managers shall be subject to the terms and limitations outlined in this chapter. Local managers shall submit information to the Colombian Financial Services Authority and to Banco de la República according to the terms and conditions in which said information is requested by those authorities for the purpose of monitoring and supervision of the investment.

The local manager shall be liable for meeting these conditions under the terms outlined in clause 2 of Article 15 in this Decree.

Amended by Decree 3264 of 1 September 2008 - Article 1. Official Gazette 47,099 dated 1 September 2008.

Amended by Decree 3913 of 8 October 2008 - Article 2. Official Gazette 47,136 dated 8 October 2008.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Related provision - Art. 4 of Decree 3913 of 8 October 2008

Article 4. Investors who, on the date this decree is issued, have deposits made pursuant to Article 29 of Decree 2080/ 2000 may request the return of such deposits, at their face value, under the terms established by Banco de la República.

Summary: Prior amendments to Decree 3264 of September 1, 2008:

Second clause:

Amended by Decree 4814 of 14 December 2007 - Article 1. Official Gazette 46,842 dated 14 December 2007.

Amended by Decree 1888 of 30 May 2008 - Article 2. Official Gazette 47,005 dated 30 May 2008.

Amended by Decree 1999 of 6 June 2008 - Article 1. Official Gazette 47,012 dated 6 June 2008.

Third clause:

"Establishment of the deposit in United States of America dollars and the new percentages referred to the clause three of Article 29 in Decree 2080/ 2000 shall apply as of 17 December two thousand seven (2007)" [Art 2 of Decree 4814 dated 14 December 2007]

Amended by Decree 1999 of 6 June 2008 - Article 1. Official Gazette 47,012 dated 6 June 2008.

Paragraph 1.

Amended by Decree 1844 of 2 July 2003 - Article 8. Official Gazette 45,238 dated 4 July 2003 (See the effective date noted at the end of the text [First - December 2003])

Amended by Decree 1801 of 23 May 2007 - Article 2. Official Gazette 46,638 dated 24 May 2007. This decree repealed Decree 2348/ 1993.

Amended by Decree 4814 of 14 December 2007 - Article 1. Official Gazette 46,842 dated 14 December 2007.

Paragraph 2.

Paragraph 2 added by Decree 2466/ 2007 Article 2. Official Gazette 46,675 dated 30 June 2007.

Paragraph 2 amended by Decree 4814 of 14 December 2007 - Article 1. Official Gazette 46842 dated 14 December 2007.

Paragraph 3.

Paragraph 3 added by Decree 4814 of 14 December 2007 - Article 1. Official Gazette 46,842 dated 14 December 2007.

Amended by Decree 1999 of 6 June 2008 - Article 1º. Official Gazette 47,012 dated 6 June 2008.

Amended by Decree 3264 of 1 September 2008 - Article 1. Official Gazette 47,099 dated 1 September 2008.

Amended by Decree 3913 of 8 October 2008 - Article 2. Official Gazette 47,136 dated 8 October 2008.

Article 30. **Limits.** In terms of the acquisition of stock, a foreign capital investment fund is subject to the rules governing the public tender, in the cases stipulated for local investors.

The foregoing is without detriment to compliance, by investors, with existing legal provisions that condition the acquisition of stock or interest in a particular legal entity.

Repealed: Decree 4800 of December 29, 2010. Official Gazette 47,937 of 29 December 2010.

Article 31. **Manager.** Foreign capital investment funds in Colombia shall be managed by trust companies or brokerage firms, subject to the rules that govern them.

The local manager of each fund shall represent it in all matters derived from the investment, being responsible for compliance with the legal and regulatory provisions that apply to the local manager.

Local managers shall accredit their qualifications and experience with the Securities Market Authority.

The transactions of the funds shall be subject to supervision by the Securities Market Authority.

The local manager of each fund shall maintain an updated a statement of investments made by the fund it manages, clearly indicating the date, name, title and the value of each transaction.

If the fund is organized in the country, the management company may receive *apodes* (sic) [contributions] from foreigners to establish and manage it.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 32. **Obligations of the local manager.** The following are the obligations of the local manager with respect to the foreign capital funds it manages:

a) Undertake the necessary procedures for authorization to operate the fund;

- b) Register the investment with Banco de la República;
- c) Provide the Securities Market Authority with the information it requires;
- d) Fulfill the obligations outlined in Article 18-1 of the Tax Code and any other provisions that might add to, amend or replace it;
- e) Refrain from making loans of any type with money from the fund;
- f) Refrain from pledging the securities comprising the fund, unless to secure the loans referred to in articles 34 and 35 in this decree.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 33. **Authorized investments.** Without precluding the provisions in paragraph one of this article, the investments of the fund shall be in securities listed in the National Registry of Securities and Intermediaries, through a ball (sic) [stock] market or any other system authorized by the Securities Market Authority.

First paragraph. Funds may keep their resources temporarily in current accounts, in savings accounts, in ordinary mutual funds or in open stock funds in entities supervised by the Banking Authority or the Securities Market Authority.

Second paragraph. In the case of fixed return securities maturing in less than two (2) years, the nominal value of investments of foreign funds in such instruments may not exceed twenty percent (20%) of the original amount of the respective issue.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 34. **Unauthorized operations.** Similarly, funds may not conduct transactions that are unauthorized as per special legal rules and shall refrain from acquiring assets with resources other than their own. Likewise, they may obtain loans on only one occasion, to enter into each operation and for a period equal to or less than five (5) days unless, in the case of securities purchased in the primary market, it pertains to the terms of the respective issue, provided the loan is granted by the issuer or underwriter of the security, or when granted in development of a privatization program, provided the financing is made available by the public agency disposing of its interest.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 35. **Liabilities of funds.** The funds may only have liabilities in Colombia, originating with the settlement of transactions within normal market terms, fees and expenses, remuneration for management, installment payments for securities in accordance with Article 34 of this decree, and other similar items related to their operation and proper financial management, as might be authorized by the Securities Market Authority.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 36 **Foreign exchange rights.** Reimbursement of capital and transfers of profits pertaining to portfolio investments shall be subject to the General Rules on Foreign Capital Investments.

The transfer abroad of net profits from portfolio investments may be done for periods of less than one year.

Net profits generated by the investment are determined based on the statements of accounts duly certified by the statutory auditor and submitted by the local manager, with proof of payment of respective taxes.

Amended by Decree 4210 of 14 December 2004 - Article 2. Official Gazette 45,762 dated 14 December 2004.

Amended by Decree 4474 of 1 December 2005 - Article 3. Official Gazette 46,109 dated 1 December 2005.

Amended by Decree 1940 of 13 June 2006 - Article 2. Official Gazette 46,298 dated 13 June 2006.

Paragraph (REPEALED). Should the investments of the funds be liquidated, as referred to in letter b) of paragraph 3 in Article 29 of this Decree, the respective resources may be reinvested only in the manner and under the terms provided for under said letter.

Added to by Decree 3264 of 1 September 2008 -Article 2. Official Gazette 47,099 dated 1 September 2008.

Repealed by Decree 3913 of 8 October 2008 - Article 3. Official Gazette 47,136 dated 8 October 2008.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 37. **Conditions and limits on the establishment and management of funds.** The establishment and management of individual and institutional funds by trust companies or brokerage firms shall be subject to the limits and conditions stipulated to that effect in this decree and by the regulations governing the management of third party resources by such companies for the purpose of investing in the stock market.

Without detriment to the authorizations required by the rules governing trust companies and brokerage firms, the establishment of individual funds shall not require special authorization.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 38. **Control.** It is the responsibility of the Securities Market Authority to verify compliance with the requirements and obligations set forth in this chapter.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 39. **Expenses of the funds.** Without prejudice to the provisions in contracts and management regulations, institutional funds shall bear the following expenses incurred within the country:

- a) The cost of custody of the assets comprising the fund;
- b) The manager's remuneration;
- c) Fees and expenses incurred to defend the interests of the fund when circumstances so require;
- d) Expenses incurred to supply information to the participants; and

e) Any others occasioned by normal operation of the fund, including those pertaining to external audits, if applicable, under the terms of its internal rules of procedure.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

Article 40. **Information.** The local managers shall send the Securities Market Authority information and a list of securities that affect and comprise the fund, doing so in the manner, with the content and on the dates determined by said agency.

Repealed: Decree 4800 of December 29, 2010. Official Gazette 47,937 of December 29, 2010.

Article 41. **Other instruments.** Pursuant to the provisions in Article 27 of this decree, equity comprised of stocks or convertible bonds of Colombian companies received by a company in Colombia supervised by the Banking Authority and the Securities Market Authority, by virtue of a trust agreement, trust management or other similar contract with respect to which a financial institution abroad will issue securities representative of such stocks or bonds to be acquired by foreign capital investors, are considered institutional funds.

The rules provided for in Chapter III, Title III of this decree shall pertain to these funds, when applicable by virtue of their nature. The Securities Market Authority will impart the appropriate instructions.

The obligations stipulated in this chapter shall be the responsibility of the entity managing the fund.

The entity managing the fund is obliged to furnish the information requested by the Securities Market Authority and by Banco de la República.

Repealed: Decree 4800 of 29 December 2010. Official Gazette 47,937 dated 29 December 2010.

TITLE IV

GENERAL RULES ON COLOMBIAN INVESTMENTS ABROAD

CHAPTER I

DEFINITION AND TYPES

Article 42. **Investment of Colombian capital abroad.** Investment of Colombian capital abroad is understood as the linking to companies abroad of assets generated in Colombia, with no remittance rights, and the reinvestment or capitalization abroad of sums, with the obligation to reimburse, from profits, interest, commissions, loan amortization, royalties and other payments for technical services and reimbursements of capital.

A Colombian investor abroad is understood as any Colombia resident, pursuant to Decree 1735/1993, who owns a capital investment abroad under the terms of this decree.

Article 43. **Types.** Investments of Colombian capital abroad in companies formed or established or intended to be formed abroad, may be of the following types, among others:

- a) Exports of tangible assets such as machinery, equipment or other physical goods contributed to corporate capital, the value of which in foreign currency is not brought back into the country, according to the regulations issued to that effect by the respective competent bodies;
- b) Exports of foreign currency as a direct contribution to the capital of a company;
- c) Investments through the export of services, technical assistance, technological contributions or intangible assets contributed to corporate capital, the value of which in foreign currency is not brought back into country, in accordance with applicable regulations;

d) Reinvestment or capitalization of sums, with the obligation to reimburse, from profits, interest, commissions, loan amortization, royalties and other payments for technical services and reimbursements of capital;

e) Investments in foreign currency from foreign loans contracted for that purpose, pursuant to the regulations issued by the Board of Directors of Banco de la República;

f) Commitment of resources abroad, even though it might not imply physically moving resources overseas;

g) The types indicated in letters a), b) and c) in this article, when not entered on the books as contributions to the capital of the company.

First paragraph. Reimbursement of capital is understood as remittances from abroad that constitute a reduction in the amount of Colombian capital committed to economic activities abroad.

Second paragraph. Investments of Colombian capital abroad include investments in companies that are established or to be formed abroad, acquisition, with intent to remain, of stocks, shares or property rights of persons residing abroad, and the establishment of branches or agencies abroad.

CHAPTER II AUTHORIZATION AND REGISTRATION

Article 44. **Authorization.** Except as provided for in special arrangements contemplated in this decree, Colombian capital investment abroad, whether initial or additional investment, does not require authorization.

Article 45. **Registration.** Colombian capital investment abroad and movement thereof shall be registered with Banco de la República, pursuant to the regulations it issues in that regard.

CHAPTER III
OBLIGATIONS OF THE INVESTOR AND CONTROLS

Article 46. **Obligations of the Colombian investor.** The owner of a Colombian investment abroad, or whoever shall represent the owner's interests, shall register initial or additional investments with Banco de la República, as it indicates and in accordance with the following terms:

- a) Investments in foreign currency are registered by presenting the exchange form used to channel the currency through the exchange market.
- b) All other types of Colombian investment abroad are to be registered within no more than twelve (12) months from the time they are made. This registration shall be done according to the terms and conditions established by Banco de la República.
- c) Replacement of the original investment, which is understood as changes in the owners, in the destination of the investment or in the company receiving it, shall be registered with Banco de la República. Said registration is to be made within no more than twelve (12) months from the time the replacement occurs and shall be done pursuant to the terms and conditions established by Banco de la República.

Paragraph 1—Banco de la República may request the information it deems necessary to monitor investments properly, including information relative to the financial statements of the investing company and the recipient of Colombian investment abroad, and will remit to DIAN (The Colombian Bureau of Revenue) the information needed to monitor the tax obligations generated by Colombian investment abroad.

Paragraph 2—Banco de la República shall refrain from registering investments made contrary to the provisions outlined in this decree.

Nor shall investments be registered when the interested party fails to submit the exchange form used to channel the investment through the exchange market.

Paragraph 3—Failure to register Colombian investments abroad, at the proper time and under the required conditions, constitutes an exchange violation.

When the competent supervisory authority discovers foreign currency was declared as a Colombian investment abroad but was not actually invested outside the country, Banco de la República shall proceed to cancel the registration.

Amended by Decree 4800 of 29 December 2010 - Article 8. Official Gazette 47,937 dated 29 December 2010.

Article 47. **Impromptu registration.** Investors of Colombian capital abroad who do not register the investment prior to the established deadlines may do so, provided:

- a) The foreign currency [in question] was declared as Colombian capital destined for investment abroad when it left the country;

- b) The Colombian capital [in question] actually has been invested abroad.

CHAPTER IV INVESTMENTS SUBJECT TO SPECIAL REGULATIONS

Article 48. **Special Regulations on Investment in Foreign Financial, Securities and Insurance Sectors:**

The entities subject to supervision and oversight by the Colombian Financial Services Authority may make capital investments abroad, in keeping with the provisions of the fundamental law on the financial system or the rules that amend or replace it.

Investments in financial, securities and insurance entities abroad on the part of entities not subject to supervision and oversight by the Colombian Financial Services Authority shall be subject to the general rules on Colombian investments abroad established in Title IV of this decree. Said authority shall define when a foreign entity is financial, involved in securities, or dedicated to insurance.

Should investors be direct partners of entities subject to supervision and oversight by the Colombian Financial Services Authority, they shall report their operations to said authority, in

advance, so as to enable it to conduct comprehensive and consolidated supervision, in the manner it regulates.

See Decree 4032/ 2010.Official Gazette 47,877 dated 29 October 2010.

Amended by Decree 4800 of 29 December 2010 - Article 9. Official Gazette 47,937 dated 29 December 2010.

Article 49. **Investments not subject to the present decree.** The investments and assets abroad referred to in Article 17 of Statute 9/1991 shall not be subject to this decree, nor shall the possession of foreign currency by residents in the country under the terms of Article 7 of the same statute.

Temporary investments made abroad by residents in the country shall not be subject to this decree, nor shall the holding and possession abroad, by residents in the country, of foreign currency that must be transferred or traded through the foreign exchange market, which shall be governed by the general rules on the matter adopted by the Board of Directors of Banco de la República in accordance with Article 10 and the other applicable provisions of Statute 9/1991.

TITLE V

FINAL PROVISIONS, EFFECTIVE DATES AND REPEALS

Article 50. **International negotiations.** The National Department of Planning, the Ministry of Foreign Affairs, the Ministry of Finance and Public Credit, the Ministry of Foreign Trade and Banco de la República, within the realm of their jurisdiction, shall consider and participate actively in the negotiation of treaties on the protection and promotion of investments.

Article 51. **Insurance on the investment.** The Ministry of Foreign Trade will approve matters relative to insurance or guarantees on the investment, derived from international conventions ratified by Colombia, when so required by the respective international agreements.

Article 52. **Operating procedures.** The Board of Directors of Banco de la República, as determined by the lawmaker, may establish operational procedures concerning matters that fall within its jurisdiction, so as to ensure strict compliance with the provisions of this decree.

Article 53. **Taxes.** Tax matters related to the investment will continue to be governed by the Tax Code and its supplementary rules.

All the provisions in this decree shall be understood as without detriment to the prior payment of taxes as ordered in the tax code.

Article 54. **Information.** Banco de la República will convey regularly, to the National Planning Department and the Ministry of Commerce, Industry and Tourism, monthly data on the investments it registers, identifying the investor, the recipient company, the amount and the type of investment.

Companies receiving foreign capital shall provide Banco de la República, upon its request, the information it might require to fulfill its functions. " (sic)

Amended by Decree 2466/ 2007 - Article 3. Official Gazette 46675 dated 30 June 2007.

Article 55. **Effective date and repeals.** This decree shall take effect as of the date it is published and repeals all regulations to the contrary.

Let it be published, made known and enforced.

Issued in Bogotá, D.C. on 18 October 2000.

DECREE 2080/ 2000 (18 OCTOBER) AND ITS AMENDMENTS

RULE	EFFECTIVE DATE	ARTICLES IT AMENDS
Decree 2080/ 2000 (18 October) O.G. 44,205 dated 25 October 2000.	25 October 2000	
Decree 1844/ 2003 (4 July) O.G. 45,238 dated 4 July 2003.	*The amendments to Article 8 (except paragraph 3), Article 29 and Article 46 of 2080/ 2000 took effect as of December 1, 2003. The amendments, additions and repeals concerning Articles 3 and 5, paragraph 3 of Article 8 and Articles 15, 16, 23 and 24 take effect on the date the decree is published (4 July 2003).	- Ordinal ii, letter a) of Article 3 - Addition of ordinal v) to letter a) of Article 3 - Addition of paragraph 3 to Article 3 - Article 8 - Article 15 - Article 16 - Article 23 - Article 29 - Article 46 - Repeals letter e) of Article 5 and Article 24.
Decree 4210/2004 (14 December) O.G. 45,762 dated December 14, 2004.	14 December 2004	- Letter d) of Article 10 - Article 36
Decree 1866/ 2005 (7 June) O.G. 45,933 dated 8 June 2005.	8 June 2005	- Article 26
Decree 4474/ 2005 (1 December) O.G. 46,109 dated 1 December 2005.	1 December 2005	- Article 5 - Article 8 - Article 36
Decree 1940/ 2006 (13 June) O.G. 46,298 dated 13 June 2006.	13 June 2006	- Letter d) of Article 10 - Article 36
Decree 1801/ 2007 (23 May)	24 May 2007	- Letter d) of Article 10 - Article 29

O.G. 46,638 dated 24 May 2007. (<u>Repeals Decree 2348/1993</u>)		
Decree 2466/ 2007 (J29 June) O.G. 46,675 dated 30 June 2007.	30 June 2007	- Addition of number vi) to letter a) of Article 3 the paragraph to Article 29 - Article 54 - Repeals the paragraph in Art. 6.
Decree 4814 de 2007 (14 December) O.G. 46,842 dated 14 December 2007.	14 December 2007	- Article 29
Decree 1888 de 2008 (30 May 2008) O.G. 47,005 dated 30 May 2008.	30 May 2008	- Addition of the paragraph to Article 10 - Article 29
Decree 1999 de 2008 (6 June 2008) D. O. 47,012 dated 6 June 2008.	6 June 2008	- Addition of paragraph 2 to Article 10 - Article 29
Decree 3264 de 2008 (1 September) D. O. 47,099 dated 1 September 2008.	1 September 2008	- Repeals the first and second paragraphs in Article 10. - Article 29 - Adds the paragraph to Article 36.
Decree 3913/ 2008 (8 October) D. O. 47,136 dated 8 October 2008.	8 October 2008	- Letter d) of Article 10 - Article 29 - Repeals the paragraph in Article 36.
Decree 2603/ 2009 (13 July) D. O. 47,409 dated 13 July 2009.	13 Julio 2009	- Article 8, letter a) and letter c)
Decree 4032/ 2010	29 October 2010	- Article 48
Decree 4800/ 2010 (29 December 2010) O.G. 47,937 dated 29 December 2010.	29 December 2010	-Article 3 -Article 4 -Letter d) of Article 5 -Article 8 - Letter c) of Article 10 -Article 15 -Article 26 -Article 46 -Article 48 Repeals articles: 27,28,29,30,31,32,33,34,35,36,37, 38,39,40 and 41.

