
GUIDE FOR THE ESTABLISHMENT OF A FOREIGN BANK'S REPRESENTATIVE OFFICE IN CHILE

A. GENERAL.

1. The General Banking Act, whose recast text was determined by Decree with Force of Law No. 3 of 1997, in Article 39 shall prohibit any person, either an individual or legal entity, which has not been authorized by other law, to engage in activities that, according to its statutes, correspond to the banking enterprises, and, especially, to accept deposits or receive, in a customary manner, money from the public, whether by way of deposit, loan or any other manner. Likewise it shall prohibit to those that have not been granted such authorization to exhibit in its store or office a sheet or advertisement containing, in any language, any expression indicating that it is a bank or a banking enterprise, nor may use signs, forms, circular letters or any other writings indicating such idea.

2. However, Article 33 of the same legal text, indicates that: “The Superintendent may, nevertheless, authorize the foreign banks to maintain representative offices acting as business agents for their main offices, and shall exercise upon them the same inspection authority granted upon him by this law with respect to the banking enterprises. Under no circumstances, shall these representative offices have the right to perform acts which pertain to the banking business. The authorization may be revoked at any time if the representative office does not comply with this provision or if its maintenance were considered inconvenient.”

Upon the analysis of the quoted provisions, it is possible to conclude:

- a) That the representative office of foreign banks may only function and be identified as such using the name of the banking enterprise in whose name they act, prior consent of the Superintendency of Banks and Financial Institutions;

- b) That the latter shall exercise upon them the same fiscalizing authority granted upon it by the law with respect to the banking enterprises, id est, it may examine without any restriction whatsoever, and by the means it may deem convenient, all the business, properties, books, accounts, files, documents and correspondence, and may request from their administrators and personnel all the information and explanation it may consider necessary to make itself familiar with the activities they develop in the country.

B. DOCUMENTATION FOR THE AUTHORIZATION.

For authorizing the establishment of a foreign bank's representative office in Chile, the Superintendency shall require the following information:

- a) Name of the represented institution and the address of its main office;
- b) Name of the individual(s) that shall hold its representation in Chile, their curricular data and address of the representation;
- c) Denomination under which the representative office shall be publicly known through their stamps, signs, certificates, forms and circular letters as well as with the Number of Municipal Permit, Postal Service and the Telephone Directory, etc.;
- d) Designation of those in charge of the representation shall be effected before a Notary and duly legalized;
- e) A detailed description of the activities or business the representative office shall develop in Chile;
- f) Declaration stating it may not conduct any operation of the banking business and that the Company is acquainted with all the prohibitive provisions of Chilean law in that regard;
- g) Commitment to keep the Superintendency informed on any change of the individuals in charge of the representative office;
- h) Main banking regulations in the country of origin concerning the entity;
- i) History and some other information of the owners;
- j) Description of the business or activities held or developed by the majority shareholders of the entity and, if it depends on a holding company, of its majority shareholders;
- k) Course of the applicant institution and its major strengths;
- l) Subject market the institution is oriented to;
- m) Projection of the business they pretend to conduct in Chile;
- n) Relative position of the applicant entity in the local, continental and world ranking, and countries where it has branches, affiliates or representative offices;

- o) Last financial statements audited (two years at least);
- p) To provide a copy of the authorization granted by the comptroller organism from the country of origin of the applicant entity; and
- q) To provide at least one risk rating of the applicant entity's main office, developed by a risk rating entity at international level.

C. DECISION FACTORS.

The Superintendency shall examine the information of the applicant bank and shall approve or reject the application considering especially two factors:

- a) The relative importance of the banking enterprise in its country of origin; and
- b) Interest to Chile the establishment of the representative office represents regarding mainly the development of foreign trade.



D. PATTERN FOR DECLARATION AND APPOINTMENT OF THE REPRESENTATIVE FOR ESTABLISHING THE REPRESENTATIVE OFFICE OF A FOREIGN BANK.

The undersigned representing the _____ Bank established in the city of _____ whose main seat is located in the same city, _____ Street declare(s) as follows:

1 That the bank they (he) represent(s) has decided to establish a representative office in _____ City, Republic of Chile, in accordance with the provisions of Article 33, General Banking Act of such country;

2 That the name the representative office shall use in all its activities shall be: _____;

3 That the representation office shall be domiciled at _____ Street N° _____ of said city;

4 That the individual(s) in charge of the representative office shall be Mr. (Messrs.)

5 That the task the individual(s) in charge shall conduct as representative(s) shall only involve (description of main purposes);

6 That the representative office shall not be entitled to conduct some actions that are part of the banking business indicated in the General Banking Act, and under no circumstance shall it receive deposits nor grant loans. The undersigned is (are) acquainted with the sanctions imposed by the Chilean law in case the referred prohibitions are infringed.

7 That the undersigned is (are) engaged to inform the Chilean Superintendency of Banks and Financial Institutions in case the individual(s) in charge or the representative office is (are) changed, by a document signed before a Notary and duly legalized.



..... thisday of20...

Attested by Notary
Legalization

E. MODIFICATIONS TO THE REPRESENTATIVE OFFICE SUBSEQUENT TO ITS AUTHORIZATION

The person in charge of the representative office shall provide the Superintendency of Banks and Financial Institutions the following information.

1. Any modification of the individual(s) in charge of the representative office.
2. Domicile change of the representative office.
3. The decision to liquidate the representative office.