

Regulations affecting foreign banks

In principle, foreign banks can establish in Chile under one of two options: through a subsidiary, or through a representation office. The latter, of course, is much more limited than the former (a representation office, for example, cannot obtain deposits from the public). In case a foreign bank decides to establish a subsidiary, it also faces two alternatives: through an agency depending directly from headquarters, or forming a Chilean corporation.

The Superintendency can repeal an application for the establishment of a foreign bank in two cases:

(a) If the by-laws of the specific foreign bank enter into conflict with Chile's General Banking Law.

(b) If the foreign entity does not offer enough guarantee about its solvency, and thus may endanger the domestic financial market.

Traditionally, (b) has implied that only banks with international recognition have been able to establish themselves in Chile, thus denying this possibility to banks incorporated in "financial heavens" and "off-shore centers". Indeed, the Superintendency did not approve the establishment of BCCI in Chile when the bank applied for it. Analogously, the law forbids the incorporation of national banks whose owners do not have a well-known and solid reputation.

It is worth noting that this legislation does not imply discrimination, as it reaches for the maximum solvency of the