

An Overview of Mexico's New Anti-Money Laundering Law

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This GT Alert provides a general overview of the Mexican Anti-Money Laundering Law (Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita) (hereinafter, the “Law”) published on October 17, 2012, in the Mexican Official Gazette of the Federation.

The purpose of the Law is to establish rules and procedures to prevent and detect transactions or activities involving illegal proceeds or terrorism financing.

To meet this objective, the Law sets forth rules to identify and notify certain transactions or activities that the Law defines as “vulnerable,” since same could be used by organized crime groups for money laundering or terrorism financing.

To access the Law click [here](#) (Spanish only).

Below, please find a brief description of the main provisions of the Law:

1. Limits on the Use of Cash; Banned Transactions. The Law sets forth restrictions on the use of cash in certain transactions.

The **banned** transactions payable in cash (pesos or foreign currency) or with precious metals (gold, silver and platinum) are:

a) Purchase and sale of real estate properties with a value greater than \$500,200 Pesos (\$38,775 USD)*. ¹

b) The following transactions with a value greater than \$200,080 Pesos (\$15,510 USD):

- (i) purchase and sale of cars, planes and boats, whether new or second-hand
- (ii) purchase and sale of jewelry, precious metals, watches, precious stones and artwork;
- (iii) purchase of tickets for gambling, raffles and lottery, as well as payment of related prizes;
- (iv) armoring services; and
- (v) transfer of shares or equity quotas of any type of entity, or the creation of any right over such shares or equity quotas.

2. Vulnerable Activities. The Law identifies vulnerable activities that, depending on their value, shall be **notified** to the Mexican Ministry of Finance (*Secretaría de Hacienda y Crédito Público*) (“**Ministry of Finance**”).

The vulnerable activities are:

- gambling, raffles and lottery activities performed by permit holders or authorized entities;
- issuance and retail of services cards, credit cards, pre-paid cards or traveler checks when not issued or offered by financial institutions;
- granting of loans, whether secured or unsecured, by individuals or entities other than financial institutions;
- rendering of professional or customary services for the construction or development of real estate properties;
- professional or customary brokerage of purchase and sale of real estate properties;
- customary and professional trading of jewelry, precious metals, watches, precious stones and artwork;
- customary and professional purchase and sale of cars, planes and boats, whether new or second-hand;
- customary or professional rendering of armoring services;
- customary or professional rendering of armored truck transportation services and securities custody services;
- independent professional services to render advice, in the name and on behalf of a client, in connection with real estate transactions, securities and bank accounts administration, or the incorporation, merger, split, administration or operation of business entities, and the service provider performs a financial transaction in the name and on behalf of the client deriving from the aforementioned activities;
- reception of donations from NGOs or civil associations;
- certain services rendered by custom agents, and
- creation of possessory or other type of rights over real estate properties.

3. Obligations of Entities or Individuals performing Vulnerable Activities. The Law sets forth obligations to the entities or individuals performing vulnerable activities.

Such obligations are:

- a) to identify clients and users (know-your-customer policies);
- b) to retain and safeguard the documentation related to clients or users that are party to a vulnerable activity for a five year period as of the date when the vulnerable activity occurred;
- c) to file relevant notices to the Ministry of Finance; and
- d) to appoint an individual who will be in charge of complying obligations under the Law. Until the appointment of such individual takes place, the Board of Directors or the Sole Director of the entity, as the case may be, will be responsible for such obligations. In the case of individuals, the individual performing vulnerable activities will be personally liable.

4. Obligations of Financial Institutions. Banks, brokerage firms and other financial institutions shall continue to perform those obligations imposed by specific laws related to money laundering prevention. In addition, such financial institutions shall also deliver to the Ministry of Finance the notices required by the Law.

Furthermore, the financial institutions shall need to implement know-your-customer policies and

retain and safeguard relevant documentation for a 10-year period.

5. Notice Obligations of Public Notaries and Commercial Brokers (Corredores Públicos). Notary Publics shall notify the Ministry of Finance, any transaction related to the purchase and sale of real estate properties, the granting of irrevocable powers of attorney, incorporation of entities, transfer of shares and equity quotas, the creation and amendment of trust agreements and loan agreements, when such transactions occurred under the conditions or above certain thresholds set forth in the Law.

Also, commercial brokers shall notify to the Ministry of Finance, any transaction related to appraisal of assets or properties, incorporation of business entities or the increase or decrease of their capital stock, and the creation, amendment or transfer of rights of a trust agreement, as well as the execution of loan agreements, when such transactions meet the criteria set forth in the Law.

6. New Investigation Unit. The Law provides the creation of a Financial Analysis Special Unit which will aim to investigate transactions involving illegal proceeds. Such Unit will be part of the Mexican Attorney General's Office (*Procuraduría General de la República*).

The Ministry of Finance will also be a competent authority to enforce the Law.

In the case of financial institutions, the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*), the National Insurance and Bonds Commission (*Comisión Nacional de Seguros y Fianzas*), the National Commission for the System of Retirement Savings (*Comisión Nacional del Sistema de Ahorro para el Retiro*) and the Tax Administration Services Agency (*Servicio de Administración Tributaria*), as the case may be, will continue to have supervising and verification powers in matters related to money laundering.

7. Sanctions. The Law provides that fines up to the amount of \$4,051,450 pesos (\$314,066 USD) or 10% of the value of the transaction, whichever is higher, may be imposed.

Also, imprisonment of up to 10 years may be imposed.

8. Date of Effectiveness; Regulations. The Law will be effective as from nine months counted as from the date of its publication. That is, June 17, 2013.

The regulations of the Law shall be issued no later than 30 days counted as from the date the Law becomes effective.

The regulations of the Law shall include simplified forms to submit those notices required under the Law.

1. * \$1.00 USD = 12.90 Pesos. The amounts included herein may change from time to time depending on the value of the minimum wage applicable in Mexico City, as well as the exchange rate dollar / Mexican peso.