

CLIENT UPDATE

FINANCIAL SANCTIONS REGULATORY CLIMATE IN MEXICO

Background

This Client Update focuses on amendments to various statutes in Mexico, so as to adopt uniform procedures for the imposition of sanctions to financial institutions and related services corporations, as well as defenses available in respect to the same.

Prior to such amendments, some lack of clarity and discrepancies in statutes providing for related procedures, laid the way open for successful defenses by interested institutions. While available defenses will continue to exist, such defenses should be based now on the merits of each sanction imposed, rather than on allegations of defective administrative procedures.

Proposed Bill

On October 3, 2023, the Senate approved and sent to the Chamber of Deputies for approval, a bill that will amend various statutes (the “Omnibus Bill”) to, among other: (i) standardize procedures for the imposition of sanctions to financial institutions and related services corporations by Mexican financial regulators, and (ii) provide for uniform means of defense by institutions and corporations subject to such sanctions.

The Omnibus Bill provides for amendments to the Transparency and Regulation of Financial Services Act, the Protection and Defense of Financial Services Users Act, the Credit Institutions Act, the Securities Exchange Act, the Financial Groups Act, the Credit Organizations and Auxiliary Activities General Act, the Credit Information Companies Regulatory Act, the Investment Funds Act, the Popular Savings and Credit Act, the Activities of Savings and Loan Cooperatives Regulatory Act, the Credit Unions Act, the Financial Technology Institutions Regulatory Act, the Insurance and Bonding Institutions Act and the Retirement Savings Systems Act.

The Omnibus Bill largely focuses on compliance with applicable statutes and with sanctions imposed by Mexico’s *Banco de México* (Mexico’s Central Bank), the National Commission for the Protection and Defense of Financial Services Users (*Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros*), and the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*).

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In sum, the relevant regulator has five years to initiate the respective sanction imposition procedure, counting from the date of the alleged infringement.

Once the sanctioning procedure has been initiated and the regulator has notified the entity in alleged breach, the entity will have ten business days to offer evidence, which may be extended one time. After this period, the regulator will have 60 business days to admit or reject the evidence offered in the procedure.

Once the regulator decides on the admission or rejection of evidence, it shall notify the entity that it has five business days to submit a brief.

Following the period for submission of the brief, the regulator will have 180 business days to issue the final resolution in respect to the sanction imposed and notify the entity in alleged breach.

The regulatory decision may be contested before Mexican courts, should sufficient basis exist.

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Please do not hesitate to contact us with any questions.

Berdeja Abogados, S.C.

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