

CLIENT UPDATE

SENATE PROPOSES REFORMS TO SIMPLIFY MEXICO LISTING PROCESS

Background

The Mexican Senate approved a bill setting out proposed reforms to the Mexico equity listing regime, with the goal of attracting issuers to list on Mexican stock exchanges. The proposed reforms may prove an attractive venue to list medium size companies and start-ups.

The reforms, if enacted, would change the current prescriptive listing regime into a more flexible disclosure-based approach.

One of the main proposals is to create a new listing segment for equity shares in commercial companies with simplified eligibility and continuing obligations requirements. However, under the proposals, debt securities and depositary receipts would not be eligible to list on the new listing segment, and thus the current standard listing category would continue to apply to such securities.

The bill also sets out proposed reforms to the Mexico investment funds scope, to allow the creation of hedge funds.

Listing Eligibility

Under the proposed regime, the existing core eligibility requirements for listing, would be significantly simplified under rules to be issued by the National Banking and Securities Commission (the “CNBV”) which will include the requirement for a prospectus to be prepared by the issuer and reviewed by the placement agent and the stock exchange, as well as a minimum free float and a minimum market capitalisation to be defined. However, in a departure from the eligibility requirements that currently apply to issuers seeking a standard listing, the new simplified listing segment would not require issuers to have the following:

- the applicable length of audited historical financial information covering the issuer’s business;
- the applicable length of representative revenue earning track record;

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- a “clean” (or unqualified) working capital statement, when applicable; and
- the approval of the CNBV.

Equity shares issued by companies under the simplified eligibility segment could only be acquired by institutional investors (essentially pension and insurance funds, financial institutions) and qualified investors (highly capitalized investors that meet investment and holding requirements).

Controlling Shareholders and Relationship Agreements

Under rules to be issued by the CNBV, an issuer would be likely to be required to address the influence of its controlling shareholder through specific disclosures and a discussion of related risk factors in its prospectus and annual financial report.

Significant Transactions

A public offering of equity securities listed in the simplified segment does not require the approval of the CNBV.

Rules to be issued by the CNBV may require an issuer to announce the key details of any transaction involving such issuer that exceeds a given percentage or value threshold under tests to be defined. Such rules would likely eliminate the requirement for an announcement for a lower threshold of transaction, and only require an announcement for higher threshold transactions.

The Bill proposals also address current requirements applicable to certain significant transactions involving standard listed issuers.

Capital calls would not require previous registration at the Registry kept by the CNBV, being sufficient to notify the same to the CNBV after giving them effect in the capital stock of the issuer.

Material information should be published principally through the exchange, whenever the CNBV or the exchange deem information available in the market to be insufficient.

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Investment Funds

The Bill proposes to authorize the listing of hedge funds, in addition to the already existing “equity”, “debt instruments”, “capital” and “limited purpose” investment funds (mutual funds).

The proposals reflected in the Bill would permit to expand the potential coverage of funds to include a wider range of assets, account for industry changes that have occurred since 2010 and streamline the adviser-fund relationship.

Shares of hedge funds could only be acquired by institutional investors (as mentioned before, pension and insurance funds, financial institutions) and qualified investors (highly capitalized investors that meet investment and holding requirements).

Hedge funds would not be subject to the percentage limitations on holdings, established in respect to other funds under the Investment Funds Act.

A company incorporated as investment advisor and authorized by the CNBV, may act as a general partner of a hedge fund.

Should the Bill be approved and enacted, the listing of hedge funds, would expand the scope of permissible investments by institutional and qualified investors in exchanges in Mexico, including among other, Mexican pension and retirement funds, a significant type of investor in Mexico.

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Please do not hesitate to contact us with any questions.

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