

TERRUM

Briefing, analysis, opinion and insight of legal affairs in Mexico

Digital Publication by ABOGADOS SIERRA Y VAZQUEZ

Jul 15, 2013
year 01 | No. 10

Financial Reform.

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P. 01-03

JUNE NEWS on

Mexican Commercial Law P. 04

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

Further to the series of articles that our law firm has published in the most recent issues of Coelum and Terrum in connection with the constitutional and legislative reforms that the Mexican government is pursuing in the context of the so called *Pacto por México*,¹ this article will focus on the financial reform project that has been submitted for discussion to the Congress (the “Financial Reform”).² The Financial Reform is an extensive number of initiatives for legislative reform with a very ambitious and wide scope, and therefore it is very likely that in order to fully discuss these changes, the Congress will need to extend the ordinary sessions.

The purpose of this article is to explain as briefly and concisely as possible, the extensive number of legislative changes that make up the Financial Reform, which overall aim to increase the availability of credit and financing, while improving the terms and conditions under which such credit and financing can be available, by implementing the following strategies:³

1. Foster the credit to be provided by the developing banking sector;
2. Increase the competitiveness of the financial sector;
3. Increase the credit available from the private banking institutions; and,
4. Assure the strength, stability and prudence of the financial sector.

“...the Financial Reform, aim to increase the availability of credit and financing...”

The implementation of each strategy implies the issuance of the new Law to Regulate Financial Groups and the amendment, derogation, abrogation or addition of several legal provisions of the following existing laws:

- Law of Protection and Defense of the Banking Services Customer
- Law for the Transparency and Organization of Financial Services
- Law of Credit Institutions and the Law of the Workers Consumption National Fund Institute
- Law of Popular Savings and Credit
- Law that regulates the Activity of the Savings and Loans Cooperative Companies
- Law of Credit Institutions
- Law that Regulates Section XIII Bis of Part B of Article 123 of the Mexican Constitution
- Organic Law of Nacional Financiera

1.- A political agreement reached among the most relevant political forces to allow the discussion at the Congress and the Senate of levels of initiatives of the most important structural changes that Mexico requires. (See www.pactopormexico.gob.mx).

2.- On May8, 2013, the President Enrique Peña Nieto submitted before the Mexican Congress 13 different decree projects that offer amendment proposals for 34 statutes, all of them related to the Mexican financial sector.

3.- As explained in the presentation made by the President Enrique Peña Nieto to the Mexican Congress (See http://hacienda.gob.mx/Biblioteca_noticias_home/reforma_financiera_08052013.pdf).

- Organic Law of the National Bank of Foreign Trade
- Organic Law of the National Bank for the Army, Air and Maritime Forces
- Organic Law of the National Savings and Financial Services Bank
- Organic Law of Sociedad Hipotecaria Nacional
- Organic Law of Financiera Rural
- General Law of Negotiable Instruments and Credit Operations
- Law of Credit Unions
- Commerce Code
- Organic Law of the Judicial Branch of the Federation
- Law of Insolvency Proceedings
- General Law of Credit Ancillary Organizations and Activities
- Law to Protect Banking Savings
- Law of the Stock Exchange Market
- Law of Investment Funds
- Law of the Banking National Commission
- Law that Regulates Credit Information Companies
- Law of Banco de Mexico
- Law of Retirement Investment Funds System
- General Law of Mutualist Insurance Institutions and Companies
- Federal Law of Bond Institutions
- Law of Foreign Investment
- Federal Code of Criminal Proceedings
- Law of Transparency and Competition of Guarantee Credit

The following is a brief description of each strategy:

1. Foster the credit to be provided by the developing banking sector.

These amendments seek to cause that (i) the applicable rules for the developing and commercial banking be more flexible in order for the developing banking sector to be able to complement the commercial banking and therefore the availability of credit for priority areas for national development be increased; (ii) credit and financing for national development be increased and be given priority; and, (iii) gender perspective be adopted when offering credit in order to actively promote equality between men and women.

2. Increase the competitiveness of the financial sector.

These amendments seek to (i) expand credit offerings and lower interest rates; (ii) provide a diagnosis and recommendations as made by the Federal Antitrust Commission to improve the competition within the financial industry; (iii) facilitate listings for medium-size companies in the Mexican Stock Exchange; (iv) protect customers from abusive banking practices and provide a complete information system to customers with respect the financial services available and their terms and conditions;

(iv) provide for a government-controlled credit bureau for the benefit of those customers that pay on time; and, (v) facilitate the transfer of guarantees among credit institutions in order to increase competition.

3. Increase the credit available from the private banking institutions.

These amendments seek to (i) strengthen the powers of the financial authorities to periodically evaluate banking institutions; (ii) increase the certainty in the execution of credit agreements and strengthen the guarantee scheme; (iii) simplify the procedure to provide and enforce credit guarantees; and (iv) improve the applicable rules for insolvency proceedings to which companies are subject to in order to increase the level of certainty in such proceedings and promote trust within the customers of the banking services.

4. Assure the strength, stability and prudence of the financial sector.

These amendments seek to (i) raise the hierarchical level within the domestic regulation of the norms concerning the standards on bank capital adequacy (Basel III Banking Regulation); (ii) provide for easier insolvency proceedings within the banking sector, while protecting the savers' rights; and, (iii) strengthen the coordination and cooperation mechanisms among the financial authorities by providing for the existence of the Council for the Stability of the Financial Sector as a permanent governmental entity.

 **“...The Financial Reform is a very positive action by the current government...”**

The Financial Reform is a very positive action by the current government because it was absolutely necessary to have an exhaustive and comprehensive reform of all laws and regulations affecting the financial sector in order to have congruency within the industry and provide customers of the financial services with as much certainty and protection as possible. However, all those amendments that aim to foster and promote the availability of credit to individuals should be analyzed deeply by Congress and if applicable, passed with as much caution as possible. Congress must take note of the recent experience in other jurisdictions where the offer of credit was heavily promoted by the government, that the effects of such an uncontrolled increment in credit and financing operations were actually negative in the long run.

Mexico needs more suburban train systems.

The system of suburban trains is required in all of Mexico, especially within the entire metropolitan zone around Mexico City, said the manager of commercialization and communications of suburban trains, Mauricio Trejo. In his own words, "It is an important necessity for the country. We need to extend and promote it in all over the Republic, because internationally, especially in Europe and United States, there has been significant investment for the development of rail systems". Rotativo de Queretaro. 04/June/2013.

Bombardier hopes to build trains in Mexico.

Bombardier Inc, biggest builder of trains in the world, anticipates that they will participate in the six tenders to build passenger trains in Mexico, which it is expected to be launched this year, said the manager of the company in Mexico. The president of Mexico, Enrique Peña Nieto, has promised a rebirth of passenger trains, with six new projects planned for 2018, included the connection of a high speed train between Mexico City and the industrial center of Queretaro which is the headquarters of the Aerospace unit of Bombardier which is located approximately 120 miles from the capital city. Reuters Agency. 12/June/2013.

This year will see the tenders for passenger trains.

The three passenger train projects that the federal government will build in the next few years, will require an investment of approximately 92,000 billion pesos and that has aroused the interest of ICA, which seek to participate in the construction of the infrastructure that will be needed. The train enterprise continues with the expectation of the issue of the base tender of each of the project that the federal government will publish at the end of the year or early next year. El Financiero. 21/June/2013.

Government Bets on Entrepreneurs.

President Peña Nieto presented a nine billion peso plan intended to boost the wellbeing of 300 thousand entrepreneurs, as well as 180 thousand micro-to-medium businesses. "This plan will help Mexico out of the economic slowdown that it has faced over the past decade" stated the president. The support plan will not be directed entirely by the federal government, as nearly half of the budget will be controlled by different banks and they would be the ones deciding whether a business is a good investment or not. The other half will be assigned to program diffusion and financial aid given directly by the Ministry of Economy. Reforma. 25/June/2013.

The Mexico-Queretaro High-speed Train still under study.

"The project of building a Mexico Queretaro high speed train continues in the analysis stage to define the financial scheme that will be required and studying the feasibility and technical information" said the president of the Mexican Chamber of the Construction Industry in Queretaro (CMIC), who also commented that the enterprises which will be involved have approached the authorities, in order to be included in this project. In accordance with information of national CMIC, this construction project will generate 9000 direct and 4500 indirect jobs. El Financiero. 26/June/2013

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Digital Publication
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