

TERRUM

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and Identification of Operations
with Illicit Origin Resources.

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

The Federal Law for the Prevention and Identification of Operations with Illicit Origin Resources.

Professional-services provision... Vulnerable Activities.

by Fermín Aramburu Sierra.

The government of Mexico, in order to prevent money laundering, enacted a Law last year, which has entered in force this year and which will change financial operations in Mexico, as well as the advice and control of the former.

The Federal Law for the Prevention and Identification of Operations with Illicit Origin Resources was published in the Federation's Official Diary on October 17th, 2012, and it entered into force on July 17th, 2013 (the Law). Also, the Regulations to the Federal Law for the Prevention and Identification of Operations with Illicit Origin Resources has been published in the Federation's Official Diary on August 16th, 2013 and it entered into force on September 1st, 2013 (the Regulations). Lastly, the General-Standards was posted on August 23rd, 2013, in the Federation's Official Diary, and entered into force on September 1st, 2013 (the Standards).

"...the freelance provision of professional services, not under a work-relationship with the respective client, shall be deemed a Vulnerable Activity..."

According to section XI of article 17 of the Law, the freelance provision of professional services, not under a work-relationship with the respective client, shall be deemed a Vulnerable Activity, in those cases in which any of the following work is projected for a client or if these are carried out in the name and representation of the client:

1. The purchase and sale of real estate or the assignation of rights thereof;
2. The management and handling of resources, valuables or any other assets of the clients;
3. The handling of banking, savings or stock accounts;
4. The organization of contributions of stock or any other kind of resources for the incorporation, operation and management of commercial companies, or
5. The incorporation, spin-off, merger, operation and management of companies or corporative covenants, including trusts or the purchase or sale of commercial entities.

Those who perform the former vulnerable activities have among others, the following obligations:

- a) They shall appoint a proxy at the Secretary of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*) (the Secretariat), who shall be in charge and responsible for the fulfillment of the obligations they have, pursuant to the Law.

- b) They shall identify their clients and gather information on their activities.
- c) They shall obtain and keep the proper information.
- d) They shall cooperate during the visits carried out by the Secretary.
- e) They shall submit the proper notices to the Secretary.

“Notwithstanding, if by the day required, the service-provider does not carry out vulnerable account activities on a regular basis, it will be necessary to register at the Secretary, pursuant to article 13 of the Regulations, since the latter might be suspected of performing these sort of activities.”

Articles 4 and 5 of the Standards set the procedure and the information that shall be submitted in order to sign up at the Secretary, which shall be done through its website. Once the Secretary receives the registry, it shall issue an electronic confirmation of sign-up and registration with digital seal, which will grant access to the electronic tools in order to be able to submit the proper notices.

Notwithstanding, if by the day required, the service-provider does not carry out vulnerable account activities on a regular basis, it will be necessary to register at the Secretary, pursuant to article 13 of the Regulations, since the latter might be suspected of performing these sort of activities.

Article 18 of the Law sets the obligation of those who perform any Vulnerable Activity to identify their clients. On the other hand, article 37 of the Standards indicates that the service-provider is obliged, within the 90 calendar-days following to the date he has submitted his sign-up and registry, to craft a Client-identification Manual, in which he shall establish the basis used to determine whether a client is or is not a low risk client.

For the former purpose, article 15 of the Regulations establishes the use of simplified measures for the identification of those clients considered of low-risk. For simplified measures, we shall understand that the clients will be identified under the Exhibit of the Standards corresponding to them, pursuant to article 17 of the Law. When the client is not considered of low-risk, pursuant to the guidelines set in the manual, the client must be identified with the all of documents and exhibits required under article 12 of the Standards.

Article 17 of the Law establishes that the vulnerable activities shall be subject to notice at the Secretary when the service-provider carries out any of the vulnerable activities in the name and in representation of a client, while respecting professional-secrecy and due process under the terms of the Law.

Because of the former, and since the representative is already registered and signed-up at the

Secretary, he has the obligation to report monthly the information regarding the vulnerable activities performed. In case the representative does not carry out any vulnerable activities, he shall still submit notice under such terms.

"The obligation to submit the notices, pursuant to the second transitory article of the Regulations shall begin from November 2013."

Pursuant to what has been established at section IV of article 18 of the Law, and in article 20 of the Regulations, representatives are obliged to keep, protect and safeguard the information which supports the identification of the clients for a term of 5 years, counting from the initial performance of the vulnerable activity, as well as a copy of the notices they submitted to the Secretary and their corresponding confirmation-receipts.

The obligation to submit the notices, pursuant to the second transitory article of the Regulations shall begin from November 2013.

In conclusion, we can outline that the representatives who provide professional services must be very careful with their performance, as well as be aware of all the obligations outlined above, in order to avoid risks and penalties

Canada and European Union agree a free-trade deal.

The deal will lower tariffs, streamline regulation, and cut red tape. Canadian Prime Minister Stephen Harper and European Commission President Jose Manuel Barroso agreed the deal at a meeting in Brussels on Friday. Mr. Barroso said they had reached a “breakthrough in negotiations” to achieve “a great agreement for both the European Union and Canada”. The deal still requires approval by parliaments and EU member states. Once approved, the agreement aims to make it easier for companies in Canada and the 28-member EU bloc to invest in and sell to each other. *BBC News. 18/10/2013*

Mexico’s Automotive Industry Accelerates.

Mexico exported 3% of the world production of all cars registered in 2012; Mexico’s Auto Industry highlights the potential to the nation of this industry sector. According to Mexico’s Automotive Industry Conference 2013, the national forum of the automotive industry, Mexico has the opportunity to capitalize on the world conditions of automotive production and has the opportunity to attract foreign investments for the sector. The country will produce nearly 3 million cars by the end of the year and 3.7 million units by the end of 2015, this because by September 2013 the automotive production in Mexico reached 2,228,319 units, according to the figures from the Mexican Automotive Industry Association (AMIA). In a statement, Mexico’s Auto Industry Conference says that in 2012, the world produced 84.1 million vehicles at global level, as confirmed by the Organization of Motor Vehicle Manufactures (OICA). *The Economist. 21/10/2013*

Federal Government outlines new energy proposals.

The Secretary of Energy, Pedro Joaquin Coldwell, laid out for the first time the areas of the law that the Federal Government will improve, with the three energy law initiatives as presented in the Senate of the Republic. He also said that if the initiative is approved, within two years the price of electricity will decrease, however he does not contemplate a decrease in gas prices. Coldwell visited the Commission of Energy and legislative studies of the Senate. He enumerated the 19 points that this law reform should contain. This is a result of the initiatives of President Peña Nieto and the two opposition political parties, the National Action Party (PAN) and also the Democratic Revolution Party (PRD). *The Economist. 22/10/2013*

Food Sector generates high profits.

The net profits in Mexico's food industry increased last year, reaching 28,339 million dollars. This is 46.6% more than registered in the same sector in Brazil, as revealed in an analysis by Global Insight Consultants. Surprisingly, the amount of the profits of this Mexican industry exceeds the profits reported by six countries: Canada, Indonesia, Turkey, Chile, South Korea and India. These countries reached profits of 24,851 million dollars in 2012. *The Economist*. 24/10/2013

Federal Energy Commission requires regulation.

Specialists in telecommunications sector advised that for the development of a market, it is not convenient to have an enterprise either be public or private that then dominates the entire market. Last Wednesday, The Secretary of Communication and Transportation (SCT), unveiled the network of telecommunications that the Federal Commission of Energy will pass to Telecommunications of Mexico (Telecomm) that through a Public and Private Association (APP), which will be tendered for this operation. In this way, Telecomm will act as a carrier of carriers and the country will be a supplier of the companies that offer the services of telephone, voice and data to the consumers. *The Economist*. 24/10/2013

The HS2 alternative would mean years of UK rail disruption.

A government-commissioned report says that the alternative to a new HS2 high speed rail link would see 14 years of weekend route closures and longer journeys for passengers. The report, by Network Rail and Atkins, says upgrading existing rail lines would severely affect the East Coast, Midland and West Coast mainlines. It also says that it would double travel times between Leeds and London. The study will add to the government's updated business case for HS2, and will be presented on Tuesday. It will be the fifth official presentation given by the government on the HS2 plan. *BBC News*. 28/10/2013

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