

TERRUM

Briefing, analysis, opinion and insight of legal affairs in Mexico
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"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

Relevant aspects of the Financial Reform.

by Vera García.

Further to the previous article of TERRUM published by our firm in respect to the so called financial reform project¹ this article will explain briefly some of the most relevant aspects of the financial reform published in the Mexican Official Journal, approved by the Mexican Congress on January 10, 2014, this decree contains the Law to Regulate Financial Groups and the derogation, amendment, abrogation or addition to several law provisions.

According to the Congressional Declaration of Purpose, this financial reform seeks to promote competitiveness of the financial sector; promote the credit to be provided by the developing banking sector; increase the credit through private financial institutes and assure more stability to the financial sector.

"The Financial reform promises an expansion of credit loans, through private financial institutions, simplifying the loan-giving and more importantly, the execution of loan guarantees. This will provide the creditor an important reduction of risk and with it, lowered credit prices."

Commercial Code:

Several provisions to the Commercial Code were reformed; most importantly the provisional remedies on mercantile proceedings with the main purpose of simplify the loan-giving process by establishing a more secure execution procedure of credit guaranties. The commercial code now establishes two new types of provisional remedies to be enforced in favor of the creditor; the first one is the *Radicación de Persona*² order against the debtor, previously defined as *Arraigo* in civil cases, but with the notorious difference that now in the case of disobedience to *Radicación de Persona* order, the penalty will be according to the applicable Criminal Code rule for disobedience to a court legal order. The second preventive measure corresponds to the retention of goods, previously defined as *Secuestro de Bienes*. Some of the advantages of the retention of goods figure is that now the creditor has the possibility to request the competent judge not only the retention of the debtor's goods, but also his own, the debtor's goods, access to goods subject to judicial attachment in order to verify the quality, state and existence of them and also could be requested by a third party.

Law of Protection and Defense of the Banking Services Customer:

- Banking Institutions by themselves or through representation may assist the National Commission for the Protection and Defense of the Banking Services Costumers to develop educational programs.
- A public credit bureau of financial institutions is created: banking services customers will have access to a complete information system provided by the banking institutions; banking users and authority that will register the banking institutes' behavior; number of claims and penalties received by the authority. The National Commission for the Protection and Defense of the Banking Services Costumers will be responsible for this system. The above has the main purpose that the banking users are able to make informed decisions.

1.- The Financial Reform by Kendra Medina on TERRUM dated as of July, 15, 2013

2.- A restriction order prohibiting the defendant or other person from leaving the district where the proceeding is taking place, without providing a legal representative fully empowered to act on his behalf. Actor may require *Radicación de Persona*, as long as there is grounded fear for the debtor to hide or leave.

- Arbitration System in Financial Matters: a conciliation mechanism for users and institutions is created, in order to expedite the resolution of disputes. The National Commission for the Protection and Defense of the Banking Services Customers will act as arbitrator in this kind of proceeding according to the Law to Regulate the Protection and Defense of the Banking Services Customers and the agreements celebrated between the user and the bank.
- The National Commission for the Protection and Defense of the Banking Services Customers may enter into agreements for the exchange of information with other financial authorities. Also, has the faculty to issue public recommendations to the banking institutes and analyze, and if applicable, order the suspension of non accurate information provided by the banks.
- The National Commission or the Protection and Defense of the Banking Services Customers has the faculty to review and revise the standard-form agreements used by the banking institutions for the celebration of their operations or the provision of their services.

“Considering the derogation, amendment, abrogation or addition to several law provisions, the financial reform, intends to promote the national economy by giving financial institutions the certainty that granting loans with better secured guarantees and faster judicial procedures will eventually translate in conditions that will favor lowers credit interest rate.”

Law for the Transparency and Organization of the Financial Services:

Banks and financial institutions may not condition the purchase of a financial product to the purchase of another product. Before, this was a very common practice between banks that used to condition the sale or hiring of operations or financial services to hiring another operation or service. These practices will be sanctioned by the Law for Transparency and Financial Services Regulation, with the intention to stimulate competition and furthermore better services and better prices, and certainly more transparency for users of financial products and services.

Law of Credit Institutions:

The banking users are now able to move their loans from one bank to another that offers better conditions or lower interest rate.

Law of Banco de Mexico:

The Bank of Mexico will be responsible for regulate the fees and interests charged by the banking institutes. The above protects customers from abusive banking practices.

Considering the derogation, amendment, abrogation or addition to several law provisions, the financial reform, intends to promote the national economy by giving financial institutions the certainty that granting loans with better secured guarantees and faster judicial procedures will eventually translate in conditions that will favor lowers credit interest rate.

It is expected that with greater amount of credit loans through private financial institutions, more competitiveness and stability of the financial sector will occur.

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Presentation of the Pre-feasibility Study for an Agri Food Cluster in the state of Chiapas.

The first follow-up meeting in 2014 "Creating a Regional Park for Agro-industrial Development for the Southeast region of Mexico" took place last January 9 at the office of Minister of Agriculture, Martínez y Martínez. The Regional Park of Agro-industrial Development of the Southeast is in response to President Peña Nieto's commitment in that region for the improvement of its agricultural base. Minister Martínez y Martínez stressed that the upcoming great reform of agriculture will seek to set off the building of productive infrastructure to make profitable, competitive and sustainable agricultural activities. *Netherlands Embassy News. 3/01/2014.*

Forecasting Growth.

The Secretariat of Finance (SHCP) is forecasting a very positive scenario for the Mexican Economy for this year. The SHCP has announced that due to the extremely bold set of reforms that the Mexican Congress announced at the end of last year, the nation's economy is forecasted to grow by a 4%. At this rate the Mexican Government is hoping to reach a yearly growth of 5% by 2018. *MILENIO NOTICIAS. 5/01/2014.*

Invest in Energy Mexico: US.

The United States Department of Commerce (DOC) recommend to businessmen that they invest in the Mexico's energy market, where it estimates that sales of equipment and services related to this sector reached 11,350 million dollars in 2013. The Mexican market for these types of products and services showed an internal annual growth rate of 13.6%, this in accordance with statistics of the Bank of Mexico and projections of the United States government. *The Economist. 16/01/2014.*

Financial reform published in the Official Journal.

The Secretary of Finance (SHCP) has now published the new reform to the fiscal law in the Official Gazette (DOF). This, after President Enrique Peña Nieto filed it before Congress on May 8, 2013 as part of the Mexico Pact, in order to expand and improve credit. The Financial reform amended thirty-four systems, contained thirteen initiatives and consists on four main pillars: promoting competition in the financial system and credit through the development banks, extending credit through private institutions and finally, giving strength and wisdom in the financial system as a whole. *Business Insight Lat. Am. 16/01/2014.*

Automotive dynamism in Mexico.

The Automotive Industry in Mexico continues its dynamism by inviting foreign investment. It is estimate that in 2017, this industry will produce four million cars; as suggested by the study by the consulting firm KPMG. 2013 it was another record year for the automotive industry in Mexico as more than 2.9 million units were produced. *Milenio 16/01/2014.*

New super highway links Mexico to the United States.

Supervia provides faster and less expensive routes to market, says the Texas International Produce Association. A new road route linking the west coast of Mexico with America's Midwest and East Coast is set to dramatically change the face of fresh produce arrivals into the southern US in the future. The Mazatlan-Matamoros super highway, dubbed Supervia, which connects Mazatlan in the state of Sinaloa to Pharr in southern Texas, officially opened in December, although it is believed small sections are still under construction. Sinaloa provides up to 80 per cent of Mexico's fruit and vegetable exports to the US. *Americafruit. 21/01/2014.*

Avocados from Mexico preps for Super Bowl.

This is the number one period for fresh avocado sales in the US, and Avocados from Mexico is looking to take advantage of this. With the countdown to Super Bowl Sunday, one of the showpiece days in the US sporting calendar, the promotional body, Avocados from Mexico, is gearing up for the big game with increased volumes to meet consumer demand. According to the promotional body, that week is the number one period for fresh avocado sales, with Avocados from Mexico expected to be at the centre of the game-day spread. Nearly 44m lbs of avocados from Mexico were imported in preparation for the increased demand and when combined with other regions, the total of almost 48m lbs made it the single highest volume week on record. *Americafruit. 30/01/2014.*

In this month extract was prepared by Emmanuel Jiménez, Patricia González, Mauricio Castillo, José Manuel Muñoz and Miguel Ruelas.

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