

The Mexican Law to Fight Money Laundering

by Miguel de Leon.

After two years of legislative proceedings, the Federal Law to Prevent and Identify Transactions with Illegally Obtained Funds (or *Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilítica*) was signed by President Felipe Calderón on October 16, 2012. The new law is designed to detect and investigate those acts and transactions that involve illegally obtained resources, and will apply restrictions to some commercial and financial transactions that may be frequently used as a cover up for money laundering. The new law will become effective nine months after its publication, this is, on July 17, 2013.

These restrictions will place limits on the amounts of cash that may be used in certain transactions that exceed a specific value stated in the law. The targeted activities must be performed either regularly or professionally to be subject to the restrictions, some of which include the following:

1. Activities related to lotteries, gambling and raffles.
2. Commercialization of credit or prepaid cards that are not issued by an approved financial institution.
3. Loans or credits offered by private parties, other than an approved financial institution.
4. Construction, development, purchase and/or sale of real estate.
5. Commercialization of art works, jewelry and gemstones.
6. Commercialization and/or distribution of ground, air and sea transportation vehicles.

The new law will also place new obligations on non-financial intermediaries, like the need to verify the identity of their clients, request information regarding their profession or source of income, as well as to keep and protect for a period of five years the documents related to the activities of their clients. Financial institutions will also be bound to keep and protect, for a period of ten years, the information related to the identity of their clients and any of the aforementioned activities. Furthermore, financial institutions will have to established procedures to prevent and detect the acts, omissions or transactions that could involve money laundering.

Notary publics will have the obligation to notify the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*) of those transactions involving incorporation of legal entities, transfers of shares or equity interests, incorporation or modification of trusts and sale-purchase of real estate.

The new law also grants new powers to the Ministry of Finance and Public Credit and to the National Attorney General's Office (*Procuraduría General de la República*) to collect information that shall allow to stop the flow of money from illegal groups. The Ministry of Finance and Public Credit will be able to perform visits to verify the compliance with this law by those private parties subject to it.

The law includes fines for those who fail to give the required notices to the authorities. These fines may be equal to the full value of a specific activity or transaction. Furthermore, the law also includes criminal sanctions for those who provide notices with false information or for those who misuse the information collected in compliance with this law. Criminal charges may be brought in these cases with prison terms ranging from two to ten years.

A new regulation of this law will have to be implemented before the law becomes effective, and it is expected to specify the measures that the private parties will have to take to comply with the law. The new law is intended to fight money laundering without placing unnecessary burdens on legitimate commercial and financial activities.

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