

## Mexico's Anti-Money Laundering Law

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Because of several financial compromises in Mexico during former President Felipe Calderón Hinojosa's term last year, Mexican authorities have created a federal law to combat money laundering and prevent terrorist financing.

On Oct. 17, 2013, the Ministry of Finance published the Federal Law for the Prevention and Identification of Transactions from Illegal Funds (Money Laundering Law). The Law went into effect July 17, 2013 and the regulations were published to take effect on Sept. 1, 2013.

The Law seeks to identify the clients and users of "vulnerable activities," and to oblige the service providers to maintain information related to such clients and users, and in some specific cases, to report activities to authorities.

The following are considered "vulnerable activities:"

- Activities related to gambling, raffles and lotteries
- Issuance of credit or service cards or traveler's checks used as a method of payment
- The habitual or professional offering of loans or mortgages
- The habitual or professional trade of construction or home development
- The rendering of real estate transactions
- The habitual or professional trade of selling and/or buying gold or other metals, jewels, watches, art, or all types of vehicles (aerial, terrestrial or maritime)
- The habitual or professional services of providing armored vehicles or transportation of valuables
- Receiving donations for non-profit organizations
- Constitution of personal rights over real estate (e.g. timeshare or fractional)
- Rendering of services of independent professional services
- Services rendered by customs agent.

The Law requires obligations for each "vulnerable activity" with the scope of obligations depending on the amount of the transactions. The following are imposed obligations: (i) Identification, (ii) notice to authorities, and (iii) limit of cash performance.

### i. Identification

The service provider is obliged to keep a record for at least 5 years of the client or user, and can deny service when the client or user refuses to provide information to protect and avoid the destruction of such information, and to facilitate the authorities with information upon request.



For example, if a timeshare developer sells a contract to a client that represents services for \$7,900 USD<sup>1</sup> or more, then the timeshare developer is obliged to keep the client's information.

The Identification obligation went into effect on Sept. 1, 2013. The Intelligence Unit of the Ministry of Finance will be in charge of requesting and reviewing information.

ii. Notice to authorities

If the amounts related to the "vulnerable activity" surpasses the thresholds set forth in the Law, then the service provider must report certain information to the Ministry of Finance no later than the 17th day of the following month. This information includes the general data of the client, its activities or occupation, and a general description of the "vulnerable activity."

The deadline to present the first notices was Oct. 17, 2013, for "vulnerable activities" performed in September 2013.

For example, if a mortgage company performs a transaction in the amount of \$38,500 USD, then such company is obliged to file a report before the authorities of the nature of the transaction, including names of parties involved.

iii. Limit of cash performance

If a transaction of a "vulnerable activity" reaches an amount stated by the Law, then no cash may be used.

Examples of the previous are the purchase or sale of cars, boats or airplanes for about \$15,300 USD, or real estate transactions of no less than \$38,500 USD.

Failure to comply with the obligations stated in the Law range greatly, but depending on the nature of the breach, penalties imposed by authorities can go from 200 minimum wages (about \$1,000 USD) to 65,000 minimum wages (about \$315,000 USD), or even 10% of the transaction, whichever results higher.

Evidently, authorities may file a criminal case if they advert an illegal activity or the intentional breach of any of the obligations stated in the Law, such as providing false information or documents to the authorities. The penalties range from 2 to 8 years in prison.

There are specific obligations in relation to public notaries and commercial brokers, which in general terms, are obliged to identify and report, in greater detail, a great range of obligations that pertain to legal and commercial transactions.

Special interest is noted to the following activities:

- Legal or accounting services

Those who perform these services are obliged to identify clients with the following criteria: manage banks or any type of valuables; manage funds to incorporate or administration of companies; perform corporate work such as incorporation, merging, acquisitions of companies.

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<sup>1</sup> Penalties in the Law are stated in "number of daily minimum wages", which at present date is \$64.76 pesos. For example, for the reference above, the penalty is 1,605 DMW (1,605 x 64.76=103,939.8), and such amount divided by the Peso-Exchange rate gives an estimate in USD).

If while performing such services, the legal or accounting counsel is representing the client, then the counsel is obliged to report the “vulnerable activity” to authorities.

- Construction or development of homes with the intent to sale, including brokers

Notwithstanding the world’s economic scenario in recent years, the Mexico’s construction industry has kept a steady growth in comparison with the country’s economy, making it one of the top industries that attract investors.<sup>2</sup>

Therefore, investors or brokers note that they will be obliged to report and avoid cash transactions when such are over \$38,500 USD.

The Law and its Regulations foresee the creation of a register of those persons and entities who render services related to “vulnerable activities.” Also, in certain industries, the Law allows that the obligations are filed jointly, through a Chamber, for example, but must have an agreement with the Ministry of Finance.

It is recommended that anyone involved directly or indirectly with “vulnerable activities” seek professional counsel to understand how this new Law affects its operation, as well as to avoid unnecessary penalties.

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<sup>2</sup> BBVA. (02 de 10 de 2013). BBVA. Obtenido de BBVAresearch:  
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