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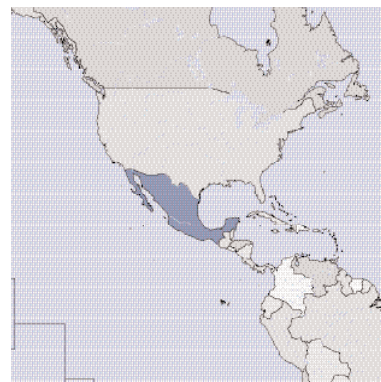
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Changes to the regulatory framework in the Mexican securities market

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To improve a stagnant securities market that has not evolved in a manner consistent with the modernization and growth of the country over the past decade, the current administration is developing a series of structural changes to foster the development of the ailing securities market. This programme has the support of the market, which is eager to grow its issuer numbers and to create the conditions for the development of a stronger investor base (being attractive to institutional and private investors in securities other than government and quasi-government securities). Many of the changes have already begun to materialize as the market has expanded. However, a structured and comprehensive adoption of all such changes must occur for the proper and sustainable development of the market.



New Securities Market Law

An entirely new Securities Market Law (*Ley del Mercado de Valores*) is being drafted. This legislation will make up for shortfalls in the amendments to the current law, which was enacted in June 2001. Some of the most relevant aspects of the proposed amendments include:

- Improved corporate governance rules, increasing the controls imposed by the June 2001 reforms.
- Board members and officers of issuers will be subject to clearer duties of diligence and loyalty, and to greater standards of fiduciary duties.
- Amendments to the definition and qualification for issuers, so a greater number of issuers can exist (under clearer and more secure rules of conduct for such issuers).
- Incorporation of higher scrutiny, liability and standards for auxiliary market participants, such as legal and other advisers to the issuers.
- Amendments to the legal framework to improve the mechanisms for repurchase, tag-along and drag-along transactions and preferred rights restriction structures
- Clearer information disclosure standards. At the time of writing, the law only sanctions the disclosure of false information, whereas the proposed amendments would impose a higher duty on the disclosure of relevant information.
- A more modern concept of public offering, which will allow for quasi-public offerings and will set out tests that must be met to avoid an issue qualifying as a public offering (that is, offerings directed only to institutional investors or to a limited number of private investors). These rules will also allow the development of a secondary market for such type of securities.

- The creation of more structured regulations for the operation of ratings agencies and quote publication agencies.

Real estate investment trusts

The rules for the development of real estate investments trusts (Reits) are expected to be fully realized. Partial amendments to the 2004 Income Tax Law already cover certain operational changes, but their implementation is subject to the issuance of regulations that have not yet been enacted, as well as to the amendment to other ancillary laws to provide for a comprehensive treatment of Reit activities. The enactment of sound and efficient rules for the operation of Reits could by itself breath life into the market – indeed, Reit-related activity in residential, industrial and retail space is an investment that has been traditionally attractive to foreign and domestic institutional investors.

Institutional investors

Regulations applicable to institutional investors such as mutual and pension funds will continue to be modified to allow more freedom to invest in a broader range of securities. At present, institutional investor activity is very restricted, and investment occurs mostly on government paper and blue-chip securities, thus preventing a healthier investment mix. Some of these more liberal standards have already been enacted, but the added security and transparency that would result from the enactment of the new Securities Market Law would foster increased confidence in the market and result in increased development of secondary markets.

Asset-backed securities

Another expected reform relates to the issuance of asset-backed securities, and will involve a decrease in the reserve requirements to be maintained by banks when participating in such types of issuances. The situation at the moment means that the high reserves result in over-collateralization and consequently in increased costs and lower yields.

The development of a more modern asset-backed securities market will continue under the new legislation. In the past few years, securitization has evolved in Mexico, establishing itself as an alternative to traditional methods of raising capital. Securitization structures are now available for financing a myriad of public and private projects, from government tax receivables, toll roads and infrastructure projects to trade receivables, residential mortgages and bridge construction loan financing.

As the market becomes more acquainted with these types of securities, and as investment restrictions on institutional investors become less stringent, it is likely that the securitization market will evolve into a strong secondary market and more issuers with asset-backed projects will appear. The general perception is that the growing Mexican institutional investor base is under-invested and that, provided the regulations grant them proper authority, institutional investors would be willing to invest in higher added-value instruments.

Banking and capital markets

Recommended firms

Franck Galicia y Robles SC

Mijares Angoitia Cortés y Fuentes SC

Ritch Heather y Mueller SC

White & Case

Jáuregui Navarrete Nader y Rojas SC

Martínez Algaba Estrella De Haro y Galván-Duque

Creel García-Cuéllar y Muggenburg SC

Kuri Breña Sánchez Ugarte Corcuera y Aznar

Borda y Quintana

Carrillo Gamboa

Franck Galicia y Robles SC

Franck Galicia y Robles SC is an excellent firm and is praised widely for its superlative service. Research showed a firm that leaves a trail of satisfied clients in its wake and, in the words of one respondent, Franck Galicia “is no doubt one of the leaders in the country for the professionalism of the lawyers and the quality of the service that they provide. No further comment is needed as this is common knowledge.”

Based in Mexico City, the firm’s banking and capital markets capacity draws on the capabilities of 12 partners and 18 associates. Of the partners, Antonio Franck is cited as outstanding for his advice, as is Manuel Galicia. They underpin a practice that services clients such as Scotiabank, Inbursa, BBVA Bancomer, Bank of America and Banamex.

The firm has been busy of late, and involved in some large deals. Most notable was the \$4 billion public offer for shares in Grupo Financiero, on which a team from Franck Galicia comprising Rafael Robles, Alejandro de la Borbolla and Pablo Jiménez advised Banco Bilbao Vizcaya Argentaria. The deal was completed in March 2004 and involved participation from Goldman Sachs and Sullivan & Cromwell.

In early 2004 the firm brought a \$1.3 billion note issue to completion, with Rafael Robles, Bernardo Martínez-Negrete and María Luisa Petricioli advising the issuer, America Movil, in the deal, which was completed in February 2004. Over the last year, the firm has also provided advice to BBVA Bancomer, Institución de Banca Múltiple on a \$400 million warrant issue, and the Centro Histórico de la Ciudad de México on a \$420 million debentures matter. These last two deals involved input from Armando Rivera.

The firm conducts its business in English, German, French and Italian.

Key contact partners

Antonio Franck
Rafael Robles
Jose Visoso

Leading lawyers

Antonio Franck
Manuel Galicia

Mijares Angoitia Cortés y Fuentes SC

Four associates have joined Mijares Angoitia Cortés y Fuentes' banking and capital markets practice in the last year, in doing so bringing the total number of lawyers dedicated to this work to six partners and nine associates. The firm, with its many highly recommended individuals, attracts positive comment from peers and clients, and the consensus in the market is that its position in tier one is justified. In the words of one market observer, Mijares Angoitia Cortés y Fuentes SC's "level of service is excellent ... it is a most capable firm, very experienced in financial markets with a broad knowledge of both domestic and international issues."

This fine reputation has served the firm well, attracting business from an excellent assortment of clients, including Grupo Televisa, Morgan Stanley, Gmac, Hipotecaria Su Casita and Goldman Sachs. From Mijares, it was José Raz-Guzmán who advised Goldman Sachs on a \$1.6 billion note issue by América Móvil, a leading domestic mobile phone company. Franck Galicia y Robles represented América Móvil on the deal.

In another note issue, worth \$300 million and lead managed by Citigroup and JP Morgan, Mijares lawyer Ricardo Maldonado provided advice to the issuer, television operator Innova. The firm also worked on Infonavit's mortgage-backed securities offering, as well as on the Grupo Televisa recapitalization. Other clients include Banamex, ABN AMRO, Banco Nacional de México (Banamex), Santander Serfin, Scotiabank Inverlat and Société Générale, which the firm advised during the \$180 million financing of Pemex Project Funding.

Key contact partners

Jaime Cortés
Ricardo Maldonado
José Raz-Guzmán

Leading lawyers

Francisco Fuentes
Fernando de Salvidea
Horacio de Uriarte

Ritch Heather y Mueller SC

Although a young firm, Ritch Heather y Mueller is regarded as excellent for its banking and capital markets advice. It is stocked with outstanding legal operators, but Luis Nicolau earns especially high praise from peers and competitors.

The firm has proved its ability to handle deals at the highest level by providing advice to the creditors during a \$2 billion financial restructuring and issue of new guaranteed notes by Grupo México and Asarco. Ritch Heather y Mueller also acted for the creditors on the \$560 million debt and bond restructuring of San Luis Rassini, and advised the creditors again on the \$900 million restructuring of Hylsamex.

Key contact partner

Luis Nicolau

White & Case

Alberto Sepúlveda Cosio is a highly respected lawyer at White & Case, and this excellent reputation is one reason for the firm's move up a tier from last year. Over the last 12 months, White & Case has seen the arrival of two new partners, Rodrigo Orozco and Eugenio Sepúlveda, who bring the firm's head count up to seven partners and 30 associates.

In recent months, White & Case has advised Pemex, Mexico's largest company, in relation to its Mex\$6.5 billion (\$579.45 million) shelf programme and domestic offering. The deal was concluded in late 2003 and constituted one of Mexico's largest single issues. The firm has also advised the government of Mexico City, advising on the establishment of a Mex\$5 billion debt shelf programme and a Mex\$2.5 billion offering. The underwriter in this deal was Accival, an indirect subsidiary of Citigroup. The firm also acted on the \$480 million structuring and securitization of road toll collections. The deal was concluded in September 2003.

Leading lawyer

Alberto Sepúlveda Cosio

Key contact partners

Vicente Corta
Alberto Sepúlveda Cosio
Juan Manuel González
Juan Pablo Rico
Alexis E Rovzar

Martínez Algaba Estrella De Haro y Galván-Duque

Partner Carlos Galván-Duque is recommended here, and stands out at a firm that moves up a tier from last year after a series of positive comments gathered during research.

In the past, the firm has advised on the \$1 billion restructuring of steel company Speks, and has also played a role in the \$90 million restructuring of tortilla industry leader Minsa.

Key contact partner

Carlos Galván-Duque

Creel García-Cuéllar y Müggensburg SC

Creel García-Cuéllar y Müggensburg has a decent reputation in the market, and in the past has provided good quality advice to domestic and international clients. The firm undoubtedly benefits from a strong relationship with Credit Suisse First Boston, recently advising the bank on a \$352 million syndicated loan to the Mexican national electricity company.

The firm has also advised the Banco Nacional de México, General Electric, BankBoston and home furnishings store chain El Puerto de Liverpool.

Key contact partner

Carlos Creel Carrera

Kuri Breña Sánchez Ugarte Corcuera y Aznar

This firm retains its position from last year after a string of solid deals. The firm advised Pasca on the securitization of toll road account receivables in a deal valued at \$439 million. Santiago Corcuera and José Rangel acted on this deal and also oversaw a similar deal on behalf of Papsa y Papsa, completed in late 2003.

In 2004 the firm has been advising on a \$60 million securitization on the part of Gicsa, as well as on a \$58 million amendment to the terms and conditions for three programmes of debt securities.

Key contact partner

Daniel Kuri Breña

Mergers and acquisitions

Recommended firms

Creel García-Cuéllar y Müggensburg SC

Franck Galicia y Robles SC

Mijares Angoitia Cortés y Fuentes SC

White & Case

Kuri Breña Sánchez Ugarte Corcuera y Aznar

Martínez Algaba Estrella De Haro y Galván-Duque

Ritch Heather y Mueller SC

Santamarina y Steta SC

Von Wobeser y Sierra SC

Basham Ringe y Correa

Carrillo Gamboa

Creel García-Cuéllar y Müggensburg SC

Creel García-Cuéllar is an excellent firm highly respected for its M&A work, and interviewees regarded its position in tier one as an accurate reflection of its standing in the market. Its prowess has brought it some of Mexico's biggest M&A transactions; one of which involved advising the Pepsi Bottling Group on its \$1.2 billion acquisition of Pepsi-Gemex. The firm also advised a consortium on its \$290 million acquisition of Cinemex, the Mexican cinema operator, and acted for Farmacias Ahumada, the Chilean pharmacy chain, as it acquired Mexican firm Farmacias Benavides in a deal valued at \$45 million.

On other deals, the firm represented the domestic television operator Cablemas on a \$60 million acquisition, and advised on RLJ Development's acquisition of Nuevos Hotels de Cancun for \$31.5 million.

The firm has a raft of highly talented M&A lawyers, and from the team, peers and clients single out Jean Michel Henriques Dahlhans.

Key contact partner

Jean Michel Henriques Dahlhans

Leading lawyer

Jean Michel Henriques Dahlhans

Franck Galicia y Robles SC

Franck Galicia is entrusted with some of Mexico's most valuable M&A transactions, and maintains its top-tier ranking from last year. Roles included advising the Bank of America on its \$1.6 billion acquisition of 25% of Banco Santander and acting for America Movil on its acquisition of \$2.3 billion-worth of stock in Telecom Americas. The firm also oversaw Grupo Industrial Lala's acquisition of Grupo Latinlac for \$90 million.

Key contact partner

Rafael Robles

Leading lawyer

Rafael Robles

Mijares Angoitia Cortés y Fuentes SC

Mijares Angoitia Cortés y Fuentes has an excellent client list, which includes names such as Nafta Fund of Mexico, Fintech Advisory, SSA Mexico Holdings (a subsidiary of SSA Marine) and JP Morgan. Mijares has added four lawyers to its M&A practice in the last 12 months. One departing associate leaves the firm's head count of M&A lawyers at five partners and 10 associates. A recent surge in the firm's reputation among peers and clients has resulted in promotion to the top tier.

The firm advised JP Morgan in a multi-jurisdictional transaction as it acquired 90% of the capital stock in leading

Mexican plastic cup manufacturer Convermex. The deal was of an undisclosed value, and involved equity contributions, bank financing and a joint venture arrangement with the management team, which also contributed equity. Overseeing this deal from Mijares were Pablo Mijares and Horacio de Uriarte.

A team from Mijares that included Fernando Orrantia and Carlos Malpica advised SSA Mexico Holdings in its acquisition from Grupo TMM of the remaining stock in TMM Puertos y Terminales. The firm also advised Finitel Advisory on its potential acquisition of Grupo Iusacell and the Nafta Fund of Mexico in its first private equity investment in Cabos Marinos del Sureste.

The firm conducts its business in English, German, French and Portuguese.

Key contact partners

Jaime Cortés
Ricardo Maldonado
Pablo Mijares

White & Case

White & Case has two new partners, as Rodrigo Orozco-Waters and Eugenio Sepúlveda have been promoted from associate level. Margarita de la Cabada has also joined the firm as an of-counsel from IPAB, the Mexican banking, deposit insurance and bank resolution agency. Described by one client as “a sophisticated M&A firm,” White & Case has eight partners, 25 associates, one counsel and 10 other fee earners, and has offices in both Monterrey and Mexico City.

In a deal completed in early 2004, White & Case advised KoSa, a subsidiary of Koch Industries, in connection with its \$4.1 billion acquisition of DuPont’s worldwide polyester business. Partner Alexis Rovzar and associates Iker Arriola and Eduardo Díaz oversaw the deal, which also involved input from US firms Jones Day and Skadden Arps Slate Meagher & Flom.

This deal followed the closure in late 2003 of a \$50 million deal involving Celestica, as it acquired all the issued and outstanding shares in Manufacturers’ Services, the electronic services company. In Mexico, partner Juan Pablo Rico supervised the deal, along with associates Iker Arriola and Raúl Fernández-Briseño. The deal also involved lawyers in the Brussels office.

Key contact partners

Alexis Rovzar
Alberto Sepúlveda Cosío

Leading lawyers

Alberto Sepúlveda Cosío

Kuri Breña Sánchez Ugarte Corcuera y Aznar

Kuri Breña Sánchez Ugarte Corcuera y Aznar’s impressive list of local and international clients includes Lake Pacific

Partners, Texas Pacific Group and the American Tower Corporation de México.

Recent deal highlights included advising KCSI on a \$700 million acquisition, which involved input from Jesús Sánchez Ugarte, Bernardo Luna, Víctor Manuel Frías and Christian Turégano. The firm also advised Terras Hipotecaria on a \$90 million sale of assets, a private equity fund on a \$40 million equity participation and Lake Pacific Partners on a \$30 million acquisition of a cellulose casing manufacturer.

Key contact partners

Daniel Kuri Breña
Gerardo Lemus
Jesús Sánchez Ugarte

Project finance

Recommended firms

Franck Galicia y Robles SC

Ritch Heather y Mueller SC

White & Case

Creel García-Cuellar y Muggenburg SC

Mijares Angoitia Cortés y Fuentes SC

Jáuregui Navarrete Nader y Rojas SC

Lopez Velarde Heftye y Soria

Kuri Breña Sánchez Ugarte Corcuera y Aznar

Martínez Algaba Estrella De Haro y Galván-Duque

Santamarina y Steta SC

Franck Galicia y Robles SC

Franck Galicia y Robles has an excellent reputation among peers and clients, due to its acknowledged ability to win mandates on some of Mexico’s most valuable undertakings.

On one such deal the firm provided advice to Citibank and Mizuho Bank in connection with the funding of the \$200 million Altamira II power project. The firm also acted for Crédit Agricole and Indosuez Banobras on their financing of the \$58 million La Ventosa power project.

Key contact partner

Carlos de Maria y Campos Segura

Ritch Heather y Mueller SC

Ritch Heather y Mueller is considered a top-flight firm for banking and finance, a reputation that stands it in good

stead for project finance, for which both clients and competitors regard the firm as among the best in the country. The firm advised on the financing of the San Fernando pipeline in the Mexican state of Tamaulipas, advising a consortium for the duration of this \$187 million deal.

The firm also acted on behalf of the lenders during the \$197 million financing of the Campeche gas compression project, and also WestLB, which it advised during the \$90 million financing of a hydroelectric power project.

Key contact partner

Thomas Mueller-Gastell

Leading lawyer

Thomas Mueller-Gastell

White & Case

A new partner brings the number of lawyers in White & Case's project finance team to three partners and 10 associates. A reputation for providing excellent advice has secured the firm an outstanding client list, including Deutsche Bank, Exxon Mobil, the International Finance Corporation, Japan Bank for International Cooperation, RWE Nukem and Société Générale.

Recently, Constructora Internacional de Infraestructura instructed White & Case for the financing of the two-unit 750MW El Cajón hydroelectric generating facilities. This \$682.4 million deal involved input from the Washington and New York offices of White & Case, and was completed in March 2004.

At the time of writing, the firm is involved in the ongoing financing of two gas-fired power stations, worth \$247 million and \$216 million respectively.

Key contact partners

Vicente Corta

Juan Manuel González

Ariel Ramos

Mijares Angoitia Cortés y Fuentes SC

Mijares has an impressive client list that includes such luminaries of international finance as Société Générale and ABN AMRO.

The deal involving Société Générale was closed in 2003 and was overseen by Mijares lawyer Francisco Fuentes, who represented Société Générale on the \$180 million-worth of financing it granted to Pemex Project Funding Master Trust. At the time of writing, the firm has several deals in progress. These deals include representing Petróleos Mexicanos (Pemex) in the Fenix Project, advising Energía Mayakan on the extension of the Mayakan pipeline, and acting for two Mexican States on the securitization of road toll revenue income, in a deal worth \$200 million.

Key contact partners

Francisco Fuentes

Fernando Orrantia

José Raz-Guzmán