

## CLIENT UPDATE

### **MEXICAN CONGRESS PASSES BILL OF AMENDMENTS TO THE CONSTITUTION TO EXPAND ROLE OF THE EXECUTIVE AND ELIMINATE REGULATORY AGENCIES**

#### **Background**

As discussed in previous Client Updates, the Mexican president at the time, known as Amlo, introduced on February 5<sup>th</sup>, 2024 a bill proposing amendments to the Constitution, with a purpose to undo fundamental pieces of the balance of powers, expand the role of the Executive with respect to the Judiciary and abolish certain independent regulatory agencies.

Amendments to the Constitution with respect to the Judiciary are discussed [here](#). This Client Update focuses on the key amendments to the Constitution proposed in respect to regulatory agencies. The proposal to eliminate the National Electoral Institute – the autonomous public agency in charge of organizing federal elections analyzed [here](#) will be revisited in a future Client Update.

#### **Proposed Bill**

The bill introduced to the Chamber of Deputies proposes to amend several sections of the Mexican Constitution (the “Bill”) to, among other, abolish several independent regulatory agencies, assigning their functions to departments of the Executive, with an exception discussed below.

#### **Potential Consequences**

The proposed amendments to the Constitution relating to the elimination of several independent regulatory agencies, are a cause for concern in Mexico, in large part due to the risk of affecting Mexico’s young democracy and oversight of the government.

#### **Elimination of Independent Regulatory Agencies**

The Chamber of Deputies controlled by Morena -the majority party, voted to approve the Bill proposing to abolish several independent regulatory agencies after a perfunctory discussion on November 20 and sent the same to the Senate. A proposal made by the National Action Party

## BERDEJA ABOGADOS, S.C.

to suspend its discussion in the Senate, to allow time for comments by academic and social groups was rejected. The Senate voted within 7 days of its receipt to approve the Bill. The Morena-controlled state legislatures ratified the Bill approved by Congress in haste, without further discussion. The Mexican president enacted it into law on December 20<sup>th</sup> by publishing it in the Official Daily of the Federation.

The Bill proposes to eliminate seven independent regulatory agencies including the Federal Competition Commission, the Federal Communications Institute, the National Transparency Institute, the National Energy Commission and the National Hydrocarbons Commission, assigning most of their functions to departments of the Executive.

An exception is made in respect to those functions of the Federal Competition Commission and the Federal Communications Institute relating to concentration and monopoly provisions of Mexican law, which will be entrusted to a new unified regulatory agency, *de facto* controlled by the president. The rest of their existing functions will be assigned to departments of the Executive.

The Bill enacted into law by the new Mexican president Claudia Sheinbaum, will supplant surveillance and oversight functions entrusted so far to independent regulatory agencies, including in particular the National Transparency Institute which enables Mexican residents to request information from the Mexican Government or obtain a court order for such purpose, and will replace them by government instrumentalities.

Competent staff of the regulatory agencies to be abolished, with significant experience in highly technical areas will be let go, to be replaced by government personnel not necessarily knowledgeable on such areas.

In addition, the extinction of the Federal Competition Commission and the Federal Communications Institute and the transfer of their concentration and monopoly powers to a new agency *de facto* controlled by the president, has serious implications under the United States-Mexico-Canada Agreement and other international treaties to which Mexico is a party, since both the review and approval functions under the new regulatory structure will reside in an agency subservient to the president.

\* \* \*

We are closely monitoring developments related to the Bill, including its relation to public policy provisions of Mexican law and international treaties to which Mexico is a party. Please do not hesitate to reach out to our firm with any questions.

Berdeja Abogados, S.C.

January 7, 2025