

Update on Mexico's New General Law of Regulatory Improvement

On May 18th, the General Law of Regulatory Improvement was promulgated and published in the Federation's Official Gazette. With this new legal framework, which entered into force the day after its publication – that is, on May 21st –, the power of the current Federal Commission for Regulatory Improvement (COFEMER) will be extended throughout the entire territory of Mexico, creating arguably the most powerful central coordinating authority for regulation in the world.

In short, COFEMER will become CONAMER, a national regulatory improvement commission with the authority to review regulatory measures developed at the federal level and perform a number of coordination activities with respect to state and municipal regulatory activities. As part of the new architecture, the General Law will require each state and municipality to create a central coordinating authority on regulatory improvement headed by a high-level official (Undersecretary or equivalent).

No regulatory reform on this scale has ever been attempted in any other country. Mexico's regulatory improvement project, if successful, will help combat corruption; enhance economic growth, free trade, competitiveness, and job creation; and, using the tools of transparency and accountability, empower Mexican small businesses and ordinary citizens.

With respect to the rulemaking process, the new General Law will:

- a) define "regulation" in a broad manner, in order to cover any legal instrument of general application issued by regulatory authorities at the federal, state, and municipal levels (including laws, regulations, criteria, *normas oficiales mexicanas*, guidelines, and manuals);
- b) oblige all regulatory authorities at the federal, state, and municipal levels to publish a Regulatory Agenda twice per year (in May and November), to publicize their regulatory forecasts and request public comment;

- c) provide regulatory improvement authorities at the federal, state, and municipal levels with the power to block the issuance of a regulation in cases where the regulator does not modify its regulatory impact analysis to reflect the recommendations of the regulatory improvement authority;
- d) require regulatory authorities at the federal, state, and municipal levels to repeal one regulatory obligation or act before promulgating a new one; and
- e) mandate regulatory authorities at the federal, state, and municipal levels to conduct ex-post regulatory impact analyses every five years for regulations that impose compliance costs.

The General Law will also establish a National Council:

- The Council will comprise several Ministers (Secretaries), a representative of the President of Mexico, the President of the Regulatory Improvement Observatory, the Heads of five State Regulatory Improvement Authorities, and the Head of CONAMER.
- The Council will develop an implementing regulation for the General Law, including revised guidance for conducting regulatory impact analyses, within 15 months of entry into force.
- CONAMER will be required to propose a National Regulatory Improvement Strategy with a 20-year vision to the Council, within 30 days after the Council has been installed.

Other elements of note in the new Law are:

- A National Observatory of Regulatory Improvement – comprising highly respected citizens with honorary appointments – will be established within six months after the Council is installed to participate in the implementation of the General Law and issue recommendations.
- Mexican states will have one year after the General Law enters into force to pass new state laws to ensure compliance with the General Law, and each state will install a State Council within 90 days after passage of its respective implementing law.
- An electronic catalogue will be created no later than three years after the General Law enters into force that will publish in one location all regulations, permits, and formalities at the federal, state, and local levels in Mexico.

- A new complaint mechanism, called “Protesta Ciudadana” or “Citizen’s Protest,” will be implemented. Under the new process, any person will be able to raise concerns with respect to the actions or inactions of a public servant – for instance, whenever an official of a regulatory agency does not provide a public service with sufficient quality or the service is provided with delays, without any reasonable justification.
- CONAMER will become Mexico’s international authority for regulatory improvement, with legal authority to sign international agreements with equivalent foreign agencies.
- With the entry into force of the General Law, all the substantive provisions on regulatory improvement contained in Mexico’s Federal Law on Administrative Procedures (enacted back in the 1990’s) will be repealed.

CONAMER’s task of trying to rationalize and align more than 150,000 regulations and 130,000 procedures throughout Mexico is a daunting one. Many questions remain unanswered, such as the role of politics in CONAMER’s relationship with state and municipal regulatory improvement systems, since in many cases the sub-federal entities will be controlled by different political parties. And given the strong possibility that the next Mexican administration will be of a different political party, it is unclear whether and how the change in administration might influence the substance and pace of implementation of the new General Law.

Given the scope and scale of these reforms, successful implementation of the General Law could substantially improve the Mexican investment climate and promote economic growth and competitiveness. Domestic and international stakeholders need to monitor these developments closely as the new system evolves and comes online over the next few years.