



MEXICAN LEGAL NEWS

## *Reform in the Field to Combat Corruption*

On April 22nd, 2015, the Chamber of Senators approved the constitutional reform in the area of fighting corruption. Now pending is the approval of the majority of the legislatures of the States which is required in order to pass a constitutional reform. Once this majority is attained it will be published in the Official Journal of the Federation.

The anti-corruption reform generates the following relevant changes in the Mexican legal order:

1. It creates the National Anti-Corruption System (**SNA**) as an instance of coordination between the authorities of all levels of government competent in prevention, detection and the sanction of administrative liability and corruption, as well as the supervision and control of public resources.

The SNA has a Coordinating Committee, which is composed of holders of the Superior audit of the Federation, of the Special Prosecutor to combat corruption, the Secretariat of the Federal Executive responsible for internal control, by the President of the Federal Tribunal of Administrative Justice, the President of the guarantor body referred to in article 6 of the Federal Constitution, as well as by a representative of the Council of the Federal judiciary and one of the Committee of Citizen Participation.

The Coordinating Committee of the SNA should develop an annual report containing the progress and results of the exercise of its functions and the implementation of policies and programmes in the field.

2. It enables the Superior Auditor of the Federation (**ASF**) to:

Conduct audits directly during the fiscal year in progress, derived from complaints, in order to investigate and punish in a timely manner possible irregular acts;

Monitor State resources when derived from debt guaranteed by the Federation;

Promote the imposition of penalties corresponding to federal and local public servants as well as to individuals, when the ASF detect irregularities; and,

Oversee federal funds that are intended and are exercised by trusts, funds and mandates, public and private.



## MEXICAN LEGAL NEWS

3. It transforms of the Federal Tribunal of Fiscal Justice and Administration into the new Federal Tribunal of Administrative Justice and shall have the authority to impose sanctions on the public servants of the three branches of government and constitutional organs of the Federation. The Tribunal's jurisdiction will extend over autonomous federal entities and municipalities for serious administrative responsibilities and individuals who participate in events related to these responsibilities as well as to determine to whoever is responsible the amounts for the payment of compensation and fines.
4. It establishes the obligation of the constitutions and laws of the States to create Tribunals of Administrative Justice and in addition, empowers the Legislative Assembly of the Federal District to issue the organic law of the Tribunal of Administrative Justice.
5. In the area of responsibilities of public servants, the following was approved:
  - Distinguishing between the serious administrative responsibilities and the non-serious;
  - Serious administrative responsibilities shall be investigated and substantiated by the Superior Auditor of the Federations and the internal control bodies.
  - Non-serious administrative responsibilities shall be investigated, substantiated and resolved by internal control bodies.
6. Tribunals in administrative matters will determine the responsibility of individuals for their participation in acts linked to serious administrative misconduct and where appropriate, impose sanctions. Examples of sanctions are: (i) economic sanctions; (ii) disqualification to participate in acquisitions, leases, services or public works; and (iii) compensation for damages caused to the Treasury or federal public bodies, Statal or municipal.
7. Regarding the declaration of asset and interests, civil servants are obliged to submit, under oath, their declaration of assets and interests before the competent authorities' statement. The anti-corruption reform proposes the origin of the procedure of extinction of property in cases of illicit enrichment.
8. Extends the statute of limitations period of serious administrative sanctions to seven years for the serious administrative misconduct.
9. The following powers were granted to the following federal legislative bodies:
  - The Chamber of Deputies shall appoint, by a vote of two-thirds of its members present, to holders of the internal organs of control of autonomous agencies carrying out resources from the budget of expenditure of the Federation;



MEXICAN LEGAL NEWS

The Senate of the Republic will ratify the Secretary responsible for the internal control of the Federal Executive; and,

The Congress of the Union will issue the general law that establishes the bases for the coordination of the SNA and the law of the Federal Tribunal of Administrative Justice. The Congress of the Union has one year from the publication of the reform on anti-corruption to fulfill this obligation.

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Sincerely,

***Von Wobeser & Sierra, S.C.***

Mexico City, April 29th, 2015.