

LEGAL NOTE

May, 2015

To: Clients and Friends**Re:** Amendments to the Mexican Constitution regarding Anti-corruption measures

On May 27, 2015, the Decree to amend and add several provisions to the United Mexican States Constitution regarding Anti-corruption measures was published in the Official Gazette of the Federation. The most relevant aspect of these amendments is reflected on the creation of the National Anti-Corruption System (*Sistema Nacional Anticorrupción*; "NAS"). The NAS will be comprised by three main governmental institutions under its coordination: (i) the Federal Superior Audit Office (*Auditoría Superior de la Federación*), (ii) the Federal Administrative Justice Court (*Tribunal Federal de Justicia Administrativa*), and (iii) the Internal Control Bodies (*Órganos Internos de Control*).

I. National Anti-corruption System - NAS

The NAS is the coordinating body between the governmental authorities in charge of the duties of prevention, detection and sanctioning of administrative responsibilities and corruption acts, being attributed to public officials or private parties, as well as monitoring and exercising control over public resources. To achieve such goal, a Coordinating Committee (*Comité Coordinador*) and a Civil Participation Committee (*Comité de Participación Ciudadana*) shall be further created.

1. Coordinating Committee. It has as its main objective to bring together and maintain the coordination all entities related with the fight against corruption so to efficientize their operation in this area, including the ones created by means of these amendments and those previously existing, such as the Ministry of Public Administration (*Secretaría de la Función Pública*), the Federal Judicial Council (*Consejo de la Judicatura Federal*) and the National Institute of Transparency (*Instituto Nacional de Transparencia*).

2. Civil Participation Committee. It shall be formed by five individuals recognized for their contribution to transparency. The Committee may issue non-binding recommendations to governmental entities to adopt institutional strengthening measures aimed at preventing administrative violations and acts of corruption, as well as improving their performance and internal control process.

II. Federal Superior Audit

The Federal Superior Audit shall have technical and management autonomy in the exercise of its authorities, which shall allow it to decide on its internal organization, operation and resolutions. Its principal authorities shall be:

a) Monitor the final destination of the federal resources granted to States and Municipalities;

- b) Monitor the federal resources allocated and exercised by any public or private entity or person, and those transferred to public or private trusts, funds or mandates; and
- c) Request and review, on case by case and concrete basis, information from prior years to the “public accounts” under review.

Based on such authorities, the Federal Superior Audit shall process the relevant actions before the Federal Administrative Justice Court for the imposition of the applicable sanctions corresponding to public officials and private parties.

III. Federal Administrative Justice Court

The main task of the Federal Administrative Justice Court shall be to sanction public officials and private parties that incur in corruption acts; in the understanding, that public officials are now obliged to submit their personal estate declaration (*declaración patrimonial*) before the competent authorities. The upcoming implementing laws and regulations shall determine the cases and circumstances in which a criminal sanction may apply for the illicit enrichment of public officials, considering that in those cases, the termination of ownership (*extinción de dominio*) of the involved assets may apply.

IV. Bodies of Internal Control

By means of these amendments, the Federal, State (including the Federal District) and Municipal governmental agencies shall now have internal control bodies, which shall have authorities to:

- a) Prevent, correct and investigate acts or omissions that may constitute administrative liabilities;
- b) Sanction those conducts that constitute administrative liabilities that are not of the Federal Administrative Justice Court competence;
- c) Review the income, outflow, management, custody and application of federal public resources and federal participations; and
- d) File claims before the Special Anti-Corruption Prosecutor (*Fiscalía Especializada en Combate a la Corrupción*) for acts or omissions that may constitute a crime.

Likewise, any citizen, under its own responsibility and by providing evidence, may file a claim before the Chamber of Deputies of the Mexican Congress (*Cámara de Diputados del Congreso de la Unión*) with respect to any conduct that may result in liabilities

No later than May 27, 2016, the Mexican Congress shall approve and publish the implementing laws and regulations that will establish the operational bases for the NAS and the governmental institutions part of it.

* * * * *