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Key Issues in M&A and Cross-Border Transactions in Mexico

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Introduction

The legal environment for transactions in Mexico has shifted significantly over the past two years. Constitutional reforms have redrawn the institutional map: the judiciary is now elected by popular vote, the autonomous regulators that anchored predictability in competition, telecommunications, energy and data protection have been dissolved and absorbed into the federal executive, and the State has reasserted primacy in the energy sector.

These changes coincide with tariff volatility and the 2026 USMCA review, which casts uncertainty over the North American trade framework on which much cross-border deal activity depends. The result is a market that remains highly attractive but considerably more complex, where deal structuring, diligence and risk allocation increasingly turn on questions of institutional design rather than doctrine alone.

Transaction data confirms this duality. Transaction volume contracted meaningfully even as aggregate deal value rose — a pattern of fewer but larger transactions. For full-year 2025, 414 Capital, a Mexico City-based independent investment bank, recorded roughly 150 transactions, down about 30 percent from 2024, while aggregate disclosed deal value climbed approximately 72 percent to around US$22.5 billion. Cross-border activity featured prominently, with foreign acquirers accounting for roughly 28 percent of transactions. Capital is concentrating in fewer, larger transactions, making structuring, diligence and risk allocation more consequential on each deal.

US$22.5B
Aggregate disclosed M&A deal value, 2025 (≈ +72% YoY)

~150
Transactions recorded in 2025 (≈ −30% YoY)

28%
Share of transactions with foreign acquirers

Below is an updated review of the issues most relevant to cross-border transactions involving Mexico.

Contents

01

SECTION

The New Institutional Landscape

Popular election of the judiciary. Following the September 2024 constitutional reform, Mexico now elects its entire federal judiciary by universal suffrage. The first election was held on June 1, 2025, seating roughly 2,700 judges (including all nine Supreme Court justices, reduced from eleven, federal magistrates, and district judges) who took the bench on September 1, 2025. A second round in 2028 covers the remaining positions. A newly elected Tribunal of Judicial Discipline holds broad sanctioning power, including removal. The principal transactional consequence is a marked decline in the quality and predictability of court proceedings and outcomes, particularly in complex commercial and regulatory matters. Counsel should assume that newly seated judges may lack commercial litigation experience and may be more exposed to political pressure.

Dissolution of autonomous regulators. A constitutional reform published December 20, 2024 eliminated seven autonomous bodies, including COFECE (competition), IFT (telecommunications), CRE (energy) and CNH (hydrocarbons), and INAI (data protection). Their mandates have been transferred to ministries or new bodies within the federal executive. This is the most consequential development for transactional practice.

Amparo reform and arbitration. Amendments to the Amparo Law published in March 2025 narrowed the availability and effect of *suspensiones* (injunctions), reducing a tool that parties have long used to obtain interim protection. A second constitutional amendment in early November 2024 stripped the federal judiciary of power to review the judicial reform itself. Together with the judicial reform, these changes have accelerated migration toward arbitration. Cross-border agreements should prioritize institutional arbitration—depending on the circumstances, a seat outside Mexico can be considered—with careful attention to award enforceability and, where the State is a counterparty, to treaty-based protections.

ADRs for tax and administrative matters. Given diminished judicial predictability, alternative dispute resolution mechanisms have gained strategic importance. The Taxpayer Ombudsman (PRODECON) offers a conclusive-agreement process (*acuerdo conclusivo*) that has become the preferred path for transfer-pricing disputes and remains the most actively used ADR mechanism in tax matters. Domestic ADR mechanisms under the General Law on Alternative Dispute Resolution Mechanisms remain largely untested with the SAT, but international mechanisms—Mutual Agreement Procedures under double-tax treaties and tax-related investor-state arbitration under bilateral investment treaties—are proving effective and increasingly pressure Mexican tax authorities. Transaction parties should factor ADR into post-closing integration planning, particularly where the target faces open audits or assessment risk.

02

SECTION

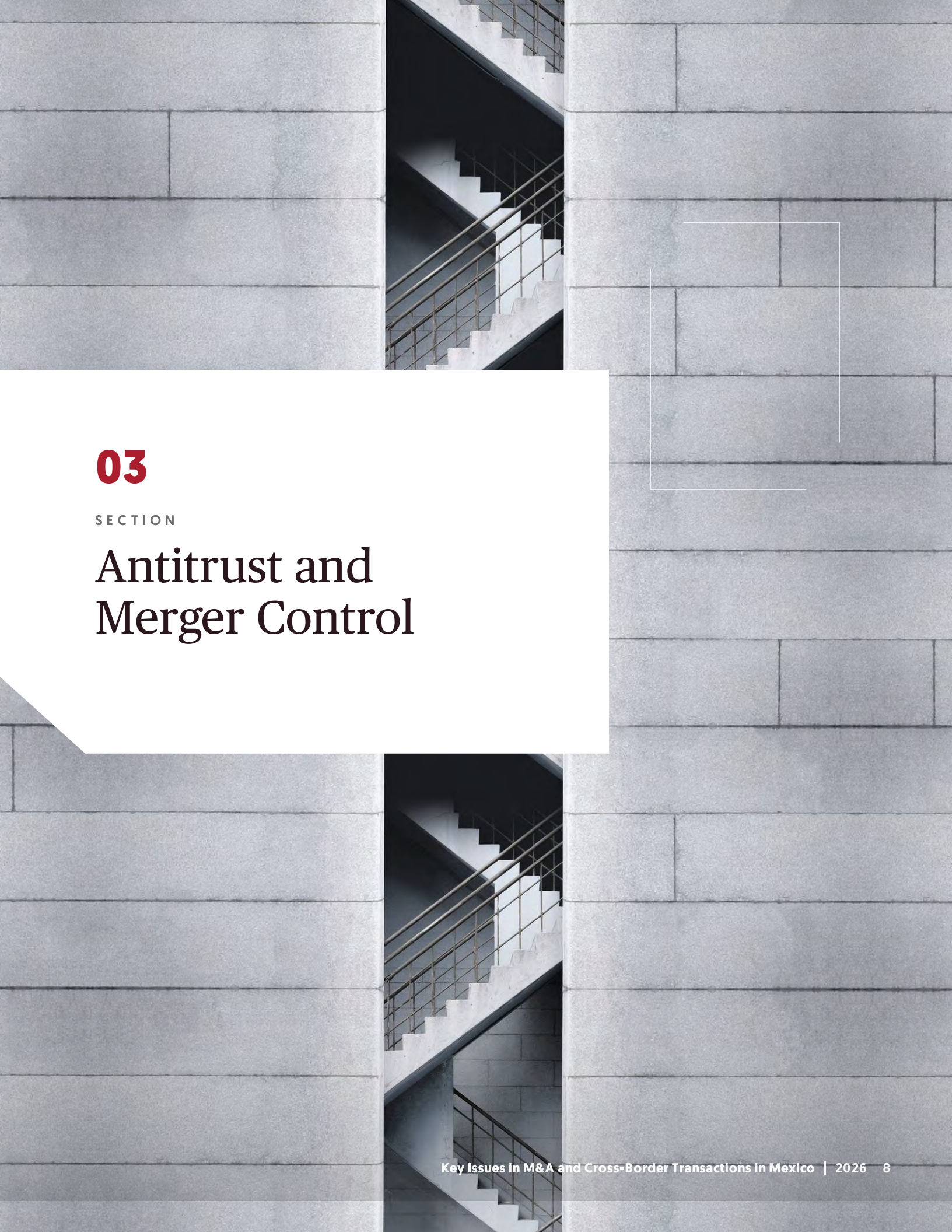
Deal Structure; Terms and Conditions

Treaty protection and forum selection. Evaluating the nationality of the acquiring entity and investment vehicle remains essential to securing investment treaty protection and preserving access to international arbitration against adverse State action, including expropriation-equivalent measures. This has gained urgency in the energy sector and wherever investment depends on concessions, permits or State contracts. Treaty coverage (scope and substance requirements) should be mapped at the structuring stage.

Dispute resolution clauses. Given diminished court reliability, transaction documents should carefully consider dispute resolution clauses and, where applicable, provide for arbitration, specifying a neutral seat and institutional rules, and addressing language, governing law and enforcement mechanics. Where enforcement may be sought against Petróleos Mexicanos (PEMEX), the Federal Electricity Commission (CFE) or other public entities, parties should consider mitigation strategies against enforcement risks and structure security and step-in rights accordingly.

Indemnification and limitation of liability. Mexican judicial precedent on sandbagging is unsettled: courts have not consistently held whether a buyer's pre-closing knowledge of a breach bars indemnification claims, so parties should address the point expressly. Limitation of liability clauses continue to be tested against Supreme Court precedent recognizing a right to full compensation and general principles of Mexican law that prevent the parties from contractually regulating liability resulting from willful misconduct (*dolo*) and gross negligence, and the Court has at times deployed moral damages in a manner approaching punitive damages. Caps, baskets and exclusive-remedy provisions should be drafted with these doctrines in mind and reinforced through arbitration.

EBITDA: historical scrubbing and forward repricing. Labor reform distorts EBITDA at both ends of the diligence window. Looking back, historical earnings from periods before the 2021 outsourcing ban and statutory profit-sharing (PTU) cap may overstate normalized profit where the target relied on employer-of-record structures that suppressed profit sharing, which remains a live issue on five-year lookbacks. Looking forward, the 2025–2026 labor changes (phased reduction of the workweek from 48 to 40 hours, recognition of platform workers as employees, and seating/rest mandates) will compress margins in labor-intensive operations and should be modeled into the buyer's case. Quality-of-earnings analysis should be coordinated with labor and tax diligence.



03

SECTION

Antitrust and Merger Control

A single authority within the executive. The Federal Economic Competition Law reform took effect on July 17, 2025. COFECE and IFT were dissolved on October 16, 2025, and their functions consolidated in a new National Antitrust Commission (CNA). The CNA is a decentralized agency sectorized to the Ministry of Economy, with stated technical and operational autonomy but without constitutional independence. It is now the sole competition authority across all sectors, eliminating prior jurisdictional overlap and the need for parallel filings in mixed-sector deals.

A more demanding regime. The number of commissioners was reduced from seven to five. Notification thresholds have been lowered, so transactions that previously fell below the filing trigger may now require clearance; this should be tested early in every deal with a Mexican nexus. Sanctions have increased materially and investigative tools have been expanded.

Privilege and process. The reform codifies legal professional privilege but protects only communications with independent external counsel; in-house communications are excluded. Companies should route sensitive competition analysis through outside counsel. Parties should expect longer review timelines during the CNA's institutional build-out.

04

SECTION

Energy and Infrastructure

A return to State primacy. Building on the October 2024 constitutional reform, secondary energy laws published on March 18, 2025 reconstituted CFE and PEMEX as "public State enterprises" charged with a social function rather than profit. CFE is guaranteed at least 54 percent of electricity dispatched to the national grid, with private participants limited to the remainder. A new National Energy Commission within the Ministry of Energy replaced the former CRE and CNH.

> **54%**
>
> Minimum share of national-grid electricity dispatch reserved for CFE

Where private capital fits. Per regulations published October 3, 2025, mixed-investment power projects require CFE to hold at least 54 percent participation, while private long-term generation must generally sell output to CFE. CFE is expected to select private partners for these mixed-investment generation projects in early June 2026. Self-supply projects isolated and below 20 MW are exempt from social-impact authorization. In hydrocarbons, PEMEX enjoys preferential rights and holds at least 40 percent in mixed contracts. Despite these constraints, private capital continues to deploy through structured consortium arrangements, joint ventures with state enterprises and service-agreement models that shift technical and financial execution risk to the private partner while preserving PEMEX or CFE operatorship. Investors should price in the loss of independent regulatory recourse and the heightened importance of treaty protection.

Power availability as a gating item. For industrial and nearshoring projects, access to firm, affordable and clean power has become a principal execution risk. Grid constraints and reduced scope for private generation can determine site selection as decisively as labor or logistics. Energy supply diligence should be front-loaded in any manufacturing or data-center investment.

05

SECTION

Foreign Investment and National Security

A more discretionary screening posture. The Foreign Investment Law continues to permit most foreign investment without prior authorization, subject to sectoral caps and prohibited activities. However, the National Foreign Investment Commission (CNIE) has moved toward more holistic, case-by-case assessment weighing sector, transaction size, investment type and fund origin. Further refinement of screening practice is expected, including potential follow-through on the 2023 U.S. cooperation memorandum.

Reading the political economy. Mexico attracted a record US$40.9 billion in FDI in 2025, up 10.8 percent from 2024 and the highest annual level on record. The composition merits attention: reinvestment of profits by companies already established in Mexico accounted for roughly 68 percent of the total, intercompany accounts for 14 percent, and fresh capital (new investments) for 18 percent, though the latter more than doubled year over year. Investors should distinguish between sectors where the State claims primacy (principally energy) and the broad balance of the economy, where openness persists. Structuring should account for more searching review in strategic sectors and near the northern border.

> **US$40.9B**
>
> Record foreign direct investment into Mexico in 2025 (+10.8% YoY)

A new fast-track for approvals. On May 4, 2026, the federal government announced a package of decrees intended to compress permitting timelines for qualifying private investment. The headline measures include an Immediate Investment Authorization framework targeting a 30-day resolution for projects in designated development hubs or representing at least MX$2 billion (~US$115.5 million) in priority sectors (electronics, automotive, energy, textiles, chemicals), a 90-day cap on most other federal procedures, a single-window digital platform for foreign-trade authorizations, and a Presidential Investment Office charged with coordinating across ministries. The intent is plainly to lower the friction created by the recent institutional changes, and the framework deserves a place in early-stage planning. The framework is very recent and untested; practitioners should validate announced timelines against actual experience, especially for multi-regulator projects or sectors where State primacy applies.

06

SECTION

Labor and Employment

The USMCA Rapid Response Mechanism. Freedom of association and authentic collective bargaining are actively policed through USMCA mechanisms. The Rapid Response Mechanism links facility-level conduct to potential trade consequences. For manufacturers, labor compliance is no longer solely an employment matter; it is a trade-continuity issue that belongs in transaction risk assessments.

Collective labor relations transformation. Constitutional reforms since 2017, the 2019 amendments to the Federal Labor Law, Mexico's ratification of ILO freedom-of-association conventions, and USMCA labor-chapter supervision mechanisms have fundamentally transformed collective labor relations. These changes privilege worker participation through personal, free, secret and direct voting in multiple processes: electing union leadership, approving collective bargaining agreements, and determining work conditions. For acquirers, this means heightened diligence on union legitimation status, recent or pending collective bargaining agreement votes, and any history of labor complaints or Rapid Response petitions. Targets with unionized workforces may face renegotiation demands post-closing, and workforce satisfaction should be assessed as a retention and integration risk.

New mandates. Most significantly, a constitutional reform reducing the maximum workweek from 48 to 40 hours was published March 3, 2026, with implementing legislation published May 1, 2026, and phased implementation through 2030. Acquirers should model the payroll, scheduling and overtime impact, particularly in labor-intensive sectors. The "Ley Silla" (seating/rest requirements) became enforceable in June 2025. Amendments recognizing platform workers as employees took effect in June 2025, bringing social-security and profit-sharing obligations.

Subcontracting and profit sharing. Personnel subcontracting remains prohibited except for specialized services unrelated to the beneficiary's core business and properly registered under the Specialized Services Registry (REPSE). Statutory profit sharing remains subject to the 2021 capped formula. Diligence should verify REPSE compliance, profit-sharing exposure and historical structures, since successor liability can materially affect value.

07

SECTION

Tax

Substance and materiality. Mexican tax law continues its movement from form to substance. A demonstrable business purpose remains a condition for authorized restructurings and non-taxable mergers. The materiality of transactions must be documented to support deductibility. Obligations to identify controlling beneficiaries carry significant penalties, and treaty benefits require attention to the ultimate beneficial owner.

Asset deals and successor liability. In asset acquisitions, the purchaser may face successor liability where the transaction is characterized as acquisition of a going concern. Asset structures should be designed and documented to manage that characterization, with appropriate certificates and holdbacks.

The 2026 package and customs overhaul. The 2026 economic package did not introduce major new taxes or rate increases, signaling an enforcement-led approach. More consequential are the amendments to the Customs Law and Federal Fiscal Code effective January 1, 2026, which tighten documentation and traceability obligations for maquiladora and export-services program (IMMEX) operators and bonded-warehouse operators and expand criminal exposure. Interest-deduction limitations continue to require modeling in leveraged structures.

08

SECTION

Foreign Trade, Customs and Nearshoring

Customs enforcement and industrial policy. The government has paired industrial-policy ambition with tighter trade enforcement. Tariffs were raised on more than 1,400 tariff lines, with focus on goods of Asian origin. A comprehensive Customs Law reform effective January 1, 2026 expands joint liability of customs brokers and importers, mandates interoperable traceability and inventory systems, and shortens the temporary-importation window for certain goods. For IMMEX operators, it imposes heightened control obligations and allows only 60 days to change customs regime upon program cancellation. Manufacturers should expect more rigorous audits.

25%

Tariff on non-USMCA-qualifying goods

50%

Steel & aluminum duties during 2025

U.S. tariff volatility. Since early 2025, goods not qualifying under USMCA rules of origin have faced tariffs of 25 percent, with steel and aluminum duties at 50 percent during 2025. Origin compliance has moved to the center of value: a product satisfying rules of origin enters the U.S. at near-zero rates, while one that does not bears materially higher duties. Acquirers should treat rules-of-origin compliance, certification and documentation as core diligence items and as subjects for specific representations.

The 2026 USMCA review. The joint review contemplated by Article 34.7, on the agreement's sixth anniversary, is the defining trade event of the period. Mexico launched a domestic consultation in September 2025, with the review expected in the second half of 2026. The review can lead to a sixteen-year extension to 2042, annual reviews, or expiry by 2036. Transaction parties with North American supply chains should account for each scenario in planning, pricing and MAC analysis.

09

SECTION

Anti-Corruption, Compliance and Investigations

Mexican enforcement architecture. Administrative anti-corruption enforcement is coordinated by the Secretariat of Anti-Corruption and Good Governance, with criminal matters handled by the Attorney General's Office. The Sectoral Program for 2025-2030 signals greater scrutiny of government contracting. Corporate criminal liability remains a prosecutorial focus, and the robustness of a target's compliance program is central to risk assessment.

U.S. Foreign Corrupt Practices Act (FCPA) with Mexico in focus. FCPA enforcement was paused for 180 days in February 2025, then resumed under revised U.S. Department of Justice (DOJ) guidelines in June 2025 refocusing on conduct connected to cartels and transnational criminal organizations. This reorientation increases, rather than reduces, exposure for business in Mexico: the August 2025 indictment of two individuals for bribery involving PEMEX illustrates continued attention to state-owned enterprises in jurisdictions with significant cartel presence. Bribery remains unlawful under other U.S. and Mexican statutes regardless of FCPA priorities.

Cartels as Foreign Terrorist Organizations (FTOs): a new material-support exposure. The U.S. designation of eight Latin American cartels as FTOs—six with significant presence in Mexico—means that conduct previously treated as a sanctions concern can now be characterized as material support to a terrorist organization, with enhanced criminal and civil exposure for those subject to U.S. jurisdiction. Because cartels increasingly extract value through ostensibly legitimate channels (security vendors, transport providers, suppliers, and co-opted unions used to channel extortion or access payments), a target's ordinary commercial relationships can be the source of exposure, often unknown to management. Diligence should screen vendors, suppliers, customers and labor counterparties against FTO and Office of Foreign Assets Control (OFAC) lists, map beneficial ownership through the supply chain, and assess geographic and sectoral risk. This exposure transfers on closing and should be addressed through specific representations, conduct covenants, and where warranted, indemnities or holdbacks.

Beneficial ownership and AML compliance. Beneficial ownership identification has become a central compliance consideration in Mexico. Tax, anti-money laundering and financial-sector regulations increasingly require companies to identify and document the individuals who ultimately own or control corporate structures. As a result, establishing Mexican entities, opening bank accounts and onboarding counterparties often require extensive beneficial ownership disclosures, particularly in multinational groups, private equity structures and trust arrangements. In transactions, AML compliance should also be assessed from the perspective of activities deemed vulnerable under Mexican law. Companies engaged in vulnerable activities may be subject to registration, customer-identification, recordkeeping and reporting obligations, and non-compliance can result in regulatory exposure, remediation costs and post-closing integration challenges.

Diligence implications. Anti-corruption and AML diligence should focus on interactions with state-owned enterprises, use of intermediaries and agents, government-contracting histories, vulnerable-activity registration status, and beneficial-ownership mapping among suppliers and counterparties. Successor liability for legacy conduct makes pre-closing review and documented remediation important to both pricing and integration.

10

SECTION

Data Protection, Intellectual Property, Copyrights and Technology

A reconstituted privacy regime. A new Federal Law on the Protection of Personal Data Held by Private Parties took effect March 21, 2025, following INAI's dissolution. Enforcement now rests with the Secretariat of Anti-Corruption and Good Governance. Implementing regulations remain pending, so the framework should be treated as transitional. The relocation of oversight into the executive raises questions about adequacy recognition and cross-border data transfers.

IP diligence and enforcement. Recent amendments to the Federal Law for the Protection of Industrial Property and the Federal Copyright Law have modernized prosecution and enforcement procedures, including online infringement proceedings and stricter timelines. The copyright reform introduces protections against unauthorized AI-generated use of performers' image and voice, which may affect talent agreements and advertising arrangements held by a target. For IP-intensive acquisitions, diligence should verify registration status, assess exposure to the new enforcement tools, and review advertising and content-licensing agreements for compliance with the updated framework.

Data and software diligence. A target's ownership of and rights in data are increasingly material, particularly where privacy notices and data-processing contracts are weak. Establishing title to software developed in-house or by third parties remains difficult under Mexican law. As artificial intelligence (AI) is integrated into operations, diligence should address provenance and licensing of training data and models.

11

SECTION

Environmental, Social and Governance (ESG)

From aspiration to supply-chain obligation. ESG considerations are now routine in M&A diligence, though recent simplification of EU supply-chain rules has narrowed the set of European buyers driving compliance demands on Mexican suppliers. Other foreign regimes and customer-level requirements remain active, so parties should identify which obligations actually reach the target and align early on the standards and expected depth of review.

A new sustainability-reporting regime. Mandatory sustainability disclosure took effect for fiscal year 2025, with first reports due in 2026. Listed issuers report under IFRS S1 and S2 per the National Banking and Securities Commission's (CNBV) January 2025 resolution, while private entities reporting under Mexican Financial Reporting Standards apply the CINIF's sustainability norms (NIS), which require sustainability indicators in the notes to financial statements. Scope 3 emissions and sustainable-investment disclosures may be deferred to fiscal year 2026 if disclosed, and external assurance ramps from optional in 2025 to limited in 2026 and reasonable from 2027. Diligence should test the target's readiness, price remediation where gaps exist, and anticipate Scope 3 data requests through the supply chain.

Water regulation overhaul. The December 2025 General Water Law and amendments to the National Water Law represent the most significant reform in three decades. Water concessions can no longer be transferred between private parties; reassignment is limited to property transfers, mergers, and inheritance, processed through the National Water Commission (CONAGUA). Changing the authorized use of a concession is now prohibited, and sanctions have increased materially, with new criminal liability for unauthorized extraction. For transactions, water access has become a gating item alongside energy: diligence should verify concession status, compliance history, and renewal risk, and deal documents should include specific representations and water-supply contingencies.

Circular economy obligations. The January 2026 General Law on Circular Economy introduces extended producer responsibility (EPR) as a binding framework. Producers and importers will face sector-specific obligations for product lifecycle management, circular design, and end-of-life recovery, rolled out gradually through agreements issued by the Ministry of Environment and Natural Resources (SEMARNAT) (plastics are prioritized for 2026-2030). Sanctions include fines up to 50,000 days of minimum wage (~US$800,000) and facility closures. Greenwashing is expressly prohibited. Acquirers should assess targets' product portfolios and waste-management systems against emerging EPR requirements.

12

SECTION

Real Estate

Nearshoring and industrial property. Demand for industrial and logistics real estate remains strong. Acquisitions of land for industrial parks frequently involve conversion of agrarian (*ejido*) land to private property, a structural reality given that a significant portion of Mexican territory remains under the social-property regime. Regularization requires careful diligence on the chain of title, compliance with statutory notification and right-of-first-refusal requirements, and formal titling by the National Agrarian Registry (RAN).

Documentation and trusts. Transactions in certain states are occasionally negotiated on U.S.-style documents that prove difficult to enforce; parties should ensure agreements satisfy Mexican formalities. Acquisitions through trusts, including in restricted border and coastal zones, warrant heightened diligence, since title defects are increasingly common. Firm and affordable power, together with water access and permitting, should be confirmed early, as these have become binding constraints on many industrial sites.

Municipal-level compliance exposure. Real estate operations depend heavily on approvals issued by municipal and state authorities, including land-use permits, construction licenses, occupancy certificates, and property tax clearances. As a result, these types of operations have more frequent and direct interactions with local government authorities than many other types of business activities. In practice, these touchpoints present heightened anti-corruption risk: permitting processes at the subnational level are often less transparent, less standardized and more discretionary than federal procedures, and the use of intermediaries or *gestores* is common. For acquirers, the compliance implications are direct. A target's historical reliance on informal facilitation to secure or expedite local approvals can generate successor liability under both Mexican anti-corruption law and extraterritorial statutes such as the U.S. Foreign Corrupt Practices Act, particularly where the acquiring entity is subject to U.S. jurisdiction. Diligence should map the target's permitting history, identify the use of third-party agents in dealings with local authorities, and assess whether approvals were obtained through processes that withstand compliance scrutiny. Where exposure is identified, it should be addressed through specific representations, indemnities and, where warranted, remediation plans coordinated with the anti-corruption analysis discussed in Section 9.

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Disclaimer. This memorandum is for informational purposes only and does not constitute legal advice. The information provided reflects our understanding of Mexican law and practice as of the date hereof and is subject to change without notice. Each transaction presents unique considerations, and readers should consult qualified counsel before acting on any matter discussed. We would be pleased to discuss any of these topics further through our subject matter experts.

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