



Federal Act to Prevent and Identify Transactions Involving Illicit Funds

On October 17, 2012, the decree issuing the Federal Act to Prevent and Identify Transactions Involving Illicit Funds (the “**Act**”) was published in the Official Federal Gazette. According to the transitory articles, this Act will go into force on July 13, 2013.

OBJECTIVES

The objectives of this Act are to protect the financial system. Thus, it establishes procedures to prevent and detect transactions involving illicit funds.

GOALS

The goals of the Act are to establish means to obtain elements to investigate and pursue felonies and to detect the financial structures of organized crime and prevent its financing.

AUTHORITIES

The Ministry of Finance and Public Credit (the “**Secretary**”) will be the entity in charge of the enforcement of this Act and its regulations. The Secretary’s powers will be to receive the notices of Vulnerable Activities, request additional information, coordinate with other authorities, prevent and detect transactions, verify compliance with the Act, handle appeals, etc.

For its part, the General Attorney’s Office will maintain a Specialized Unit for Financial Analysis that will have powers to request information, establish report criteria, design and implement analysis mechanisms, conduct investigations, etc.

PROHIBITED AND VULNERABLE ACTIVITIES

It is **prohibited** to pay or receive payment in cash or other currencies or with precious metals for the following:

- A)** Real estate transactions with a value greater than MxP\$500,200 (approximately US\$38,500); and
- B)** Purchase and sale transactions of (i) vehicles (aerial, marine or terrestrial), jewelry, precious metals, watches, precious stones and artwork; (ii) acquisition of tickets for gambling and lottery, (iii) armoring services; and (iv) transfer of shares or equity quotas of legal entities, or the creation of any right over such shares or equity quotas; with a value greater than \$200,080 (approximately US\$15390).



The following will be considered **Vulnerable Activities** and therefore subject to identification:

- A) **Commercial** activities with (i) any kind of instruments for storing funds, (ii) traveler's checks, (iii) precious metals and/or jewels, (iv) art, and (v) vehicles (terrestrial, aerial, or marine).
- B) The **rendering of services** related to (i) the armoring of vehicles, (ii) transporting or custody of securities, (iii) administration professionals, (iv) public certification under oath, (v) foreign trade, and (vi) loans and credits; and,
- C) **Other** activities such as (i) gambling, (ii) reception of deductible donations, and (iii) the concession of rights to the use and enjoyment of real estate.

Those who engage in Vulnerable Activities will be required to identify their clients, request information regarding their occupation and about the existence of a third-party beneficiary, protect the obtained information, cooperate with the inspections, and present all the corresponding notices.

In addition, the companies that engage in Vulnerable Activities must designate, before the Secretary, a representative in charge of compliance with the obligations established by the Act. Individuals will have to comply in all cases, personally and directly, with the obligations of the Act. The notices must be presented no later than the 17th day of the next month electronically and by filing an official form.

The clients and users of those who engage in Vulnerable Activities will provide all the necessary information and documents to comply with the obligations established by the Act. If the clients and users do not comply, those who engage in Vulnerable Activities must refrain, without any liability, from engaging in the action or transaction in question.

NOTICES, FINANCIAL ENTITIES, AND VULNERABLE ACTIVITIES

All financial entities must establish procedures to prevent and detect actions and operations that might be considered transactions with illicit funds, notify it to the authorities and to preserve the necessary information to identify the clients.

INSPECTIONS

The Secretary may prove, on its own initiative, and at any time, compliance with the obligations set forth in this Act, through inspection of those who engage in Vulnerable Activities.

In the event any of the general or specific obligations of this Act are not complied with, the infringers will be fined from 200 to 65,000 times the minimum wage in the Federal District. Also, the Secretary will impose administrative penalties on those who do not abide by the provisions regarding inspections set forth in the Act. In certain specific cases, non-compliance can result in the revocation of gaming permits, the cancellation of a commercial notary public's license, suspension of incumbency, revocation of a notary's license and cancellation of authorizations granted to customs agents.

The appeal set forth in the Federal Administrative Procedures Act may be filed before the Secretary of Finance against any sanction.



FELONIES

Providing false information or altering the information and documents considered in the notices shall be considered a felony. Also considered a felony is the undue usage, by any authority or any of its agents, of the information and documents to which it may have access due to this Act, or anyone who discloses information in which an individual, entity or public official is identified in any notice or information requirement made between authorities.

TRANSITORY PROVISIONS

This Act will come into effect nine months after its publication in the Official Gazette on October 17, 2013, which is to say on July 17, 2013. However, the executive power must publish the regulations of the law within 30 calendar days (November 16, 2012).

All the provisions related to the obligation to file notices, as well as all restrictions on cash, will enter into effect within sixty days of the issuance of the regulations.

This publication serves only for information purposes only, and does not imply and shall not be interpreted as a specific legal advice. Von Wobeser y Sierra takes no liability for a decision taken based on this publication.

Should you have any questions or comments regarding the contents of this brief or in case you need any further information on the application of the Act in question, please do not hesitate to contact us.

Von Wobeser & Sierra

Mexico City, January, 2013.