



Amendment to the Securities Market Law, what for and what is next?

Sánchez Devanny | May 10, 2023

With 65 votes in favor, the Plenary Session of the Senate approved the decree amending, repealing, and adding certain articles of the Securities Market Law and the Investment Funds Law (the "Amendment").

According to the Mexican Association of Stock Market Institutions (*Asociación Mexicana de Instituciones Bursátiles*), the proposed Amendment would allow a large number of companies, particularly small and medium-sized companies, to access stock market financing at a lower cost and more quickly compared to the costs and time required today to go public. In other words, the Amendment would be intended to accelerate the growth of the stock market as a source of financing for thousands of companies in Mexico by addressing several factors that would facilitate the entry of issuers and investors into the market.

It is important to note that the Amendment is still subject to the approval by the Chamber of Deputies (*Cámara de Diputados*) and to date, it is uncertain whether its approval will take place in an extraordinary session (if called) during the following weeks or during a session in the next ordinary session that begins on September 1, 2023 and ends on December 15, 2023.

The Amendment proposes, among other things, the following:

1. Simplified registration of securities.

Small and medium-sized companies would be allowed to participate in the stock market through the simplified issuer concept. Simplified issuers would seek the registration of debt or equity securities through a process before the respective stock exchange and jointly with the brokerage firms. Subsequently, the respective stock exchange would apply to the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*, the "CNBV") for registration in the National Securities Registry. It is important to note that the securities subject to the simplified registration could only be offered to institutional or qualified investors.

2. Disclosure issues.

Only in connection with simplified issuers, and subject to the provisions set forth below, the CNBV would be relieved of the obligation to supervise such issuers, and such obligation would be left to the broker dealers and stock exchanges, as applicable.

3. Amendments to the regime of the Stock Exchange Companies.

The Amendment also provides that Public Limited Companies (*Sociedades Anónimas Bursátiles*, "SAB") may issue capital shares with differentiated rights and allows the shareholders' meeting to delegate to the board of directors the power to increase the capital stock from time to time. As for the Investment Promotion Corporations (*Sociedades Anónimas Promotoras de Inversión*), it would no longer be necessary to transition to the SAB within the 10-year term currently provided for by the Securities Market Law.

4. Flexibility in the protection clauses against hostile takeovers.

The Amendment provides for the flexibility of the voting quorum to approve the inclusion of such protection clauses.

5. Flexibility in the cancellation of securities in the National Securities Registry.

The CNBV is granted greater flexibility to cancel securities registered in the National Securities Registry when an issuer is unable to carry out the cancellation processes currently provided for in the Securities Market Law.

6. Various requirements for Investment Advisors.

It is proposed to comply with certain additional requirements for registration as an Investment Advisor and that such requirements be certified by a self-regulatory body, as regulated by secondary provisions.

7. Authorization for Investment Advisors to act as founding partners of Hedge Funds.

The Amendment provides that Investment Advisors may provide asset management services to Investment Funds.

8. The creation of Hedge Investment Funds.

The existence of hedge funds is proposed as a new modality that may be adopted by investment funds, which may operate with any asset subject to investment, allowing them to enter loans, credits or other transactions causing liabilities. Hedge fund shares may only be offered to institutional or qualified investors and are not required to establish maximum holding limits per shareholder.

Finally, it is important to note that the Amendment would empower the CNBV to issue secondary regulations in general provisions within 12 months after the Amendment becomes effective, which may specify the aforementioned issues.

Sánchez DeVanny has specialists in securities matters, who have advised various participants in the stock market.



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