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**Compliance under Mexico's New Anti-Corruption Legal Framework.**

by Carlos A. Chávez

The implementation of Mexico's new anti-corruption legal framework will reach its central moment next July 19, 2017, once the General Law of Administrative Liabilities comes into full force and effect. This law, in essence, provides the control mechanisms for the fight against corruption in Mexico by: (i) setting the standards that public servants must abide by in their public service, requiring them to file their "3 de 3" statements of assets, conflicts of interest and annual tax returns; (ii) providing a list of conducts deemed as corrupt practices and that can be carried out by public servants and/or private parties (individuals and legal entities); and (iii) establishing the penalties which may be imposed by the authorities for the failure to comply with the law.

The sanctioned conducts that are considered as "administrative violations" that can be committed by private parties, include: (i) bribery; (ii) illegal participation in administrative proceedings; (iii) influence-peddling; (iv) falsification of information; (v) collusion; (vi) misappropriation of public funds; and (vii) wrongful hiring of former public servants.

Sanctions for such violations include fines of up to twice the amount of the obtained benefits or around U.S.\$6 million, debarment from public procurement, suspension of activities from three months to three years, dissolution of the company and/or the payment of compensatory damages.

The General Law of Administrative Liabilities, parallel to the U.S. Foreign Corrupt Practices Act of 1977 (FCPA), the UK Bribery Act 2010 and other similar frameworks around the globe, sets forth that companies can mitigate their liabilities if they have in place an "integrity policy", which is essentially a compliance program.

The law provides seven elements of an acceptable compliance program:

- A clear and complete Organization and Procedures Manual that outlines responsibilities of every area and the chain of command of the company and leadership structure;
- A Code of Conduct duly published within the company and/or organization;
- Adequate and effective Supervision, Audit and Control Systems that periodically examine compliance throughout the organization;
- Internal Whistleblower and Reporting Systems, along with corrective procedures for individuals who violate the company's policies or the law;
- Training Programs and Systems for compliance of the policies;
- Nondiscriminatory Human-Resources Policies which may prevent the hiring of individuals who could compromise the company's integrity; and
- Mechanisms to ensure transparency.

In addition, self-reporting and cooperation with authorities during investigations can qualify as mitigating factors in the applications of penalties. Now, having an integrity policy based on these seven elements is the best start for complying with the new regulations in Mexico, although it is recommended to go a step further to ensure better results and reduce the exposure to liabilities under this new framework and of course, under any other global anti-corruption framework which may be applicable in each case. We at JATA would be glad to help you navigate through these new

business environment in Mexico and provide you personalized attention and legal advice for your business needs.

JATA is a Mexican law firm with offices at Monterrey, Mexico and Houston, Texas.

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