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Reform Opens Door to Private Investment in Mexico's Energy Sector

Mexican Senate presents comprehensive Energy Reform Bill to the House of Representatives with tremendous potential for domestic and foreign energy companies.

In an encouraging move toward energy reform, the Mexican Senate approved today and presented to the House of Representatives a bill—the combined effort of *Partido Acción Nacional* (PAN) and *Partido Revolucionario Institucional* (PRI)—with a constitutional reform proposal (the Energy Reform Bill) that paves the way to allow production and profit-sharing arrangements with, and the issuance of risk-sharing licenses to, private parties. The bill further advances the efforts of both parties, detailed in our August 15, 2013 LawFlash,[1] to promote energy reform in Mexico.

If the bill is enacted, these production and profit-sharing arrangements could be entered either directly by private parties or in association with *Petróleos Mexicanos* (Pemex), the state oil company. It is expected that risk-sharing licenses will mimic a concession-based system that would allow the booking of reserves for accounting purposes. Mexico has struggled with the adoption of a "pure" concession-based system due to a deeply engrained social and political belief that Mexico's oil and gas reserves are and should remain the exclusive property of the Mexican state.

In addition, the Energy Reform Bill proposes the creation of the Mexican Oil Fund, with Mexico's central bank, Banco de México, acting as the trustee. The fund would manage, invest, and distribute hydrocarbon revenues.

In the power sector, the Energy Reform Bill reaffirms the state monopoly with respect to the operation of the national grid and transmission and distribution activities. However, if enacted, the bill would break horizontal processes by permitting private parties to participate and contract with the *Comisión Nacional de Electricidad* (CFE), the state-owned utility company, and by allowing competitive activities with respect to power generation and commercialization.

Details on the reform are expected to be addressed in subsequent legislation that would follow congressional approval of the Energy Reform Bill; however, the bill underlines the reality of the reform and its potential for domestic and foreign private investors. The Energy Reform Bill, if approved, would give Congress a 120-day period to establish the necessary legal framework and regulate the new contracting mechanisms.

In order to pass, the bill will have to be approved by the House of Representatives and by 17 of the 32 state legislatures. It will then be submitted back to Congress for presentment of the final bill to the president, who must sanction and sign the proposed Energy Reform Bill into law, at which point it will be published in the *Mexican Federal Official Gazette*. Although some adjustments are expected, both PRI and PAN have indicated their intent to complete the congressional approval of the constitutional amendments on or before December 15, 2013.

Contacts

If you have any questions or would like more information on the issues discussed in this LawFlash, please contact

1. View our August 15, 2013 LawFlash, "Mexican Government to Consider Overhaul of Energy Sector," available at http://www.morganlewis.com/pubs/EnergyTrans_LF_MexicanGovtConsiderOverhaulOfEnergySector_15aug13.

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