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Global Practice Guides

Corporate M&A

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2026

MEXICO

Law and Practice

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Cannizzo

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Cannizzo was established more than 40 years ago and has, owing to the international education and experience of its lawyers and their deep understanding of Mexican business, been a gateway for doing business in the country ever since. The firm has particular experience in the M&A, corporate, infrastructure, banking and finance, real estate and hospitality fields, where it has been one of the most active firms in Mexico and involved in multimillion-dollar M&A, corporate and financing transactions. Cannizzo assists public and private companies with their acquisition and disposition M&A activities, joint ventures and strategic alliances, and private equity investments in a wide range of industries, including regulated ones, as well as offering regulatory advice and related services. The authors would like to thank Emiliano Quiroz, Erick Sastré and Julio Silva for their contributions to this chapter.

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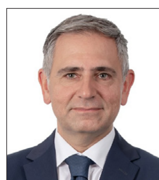

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1. Trends

1.1 M&A Market

According to TTR Annual Data Report 2025, Mexico ranked third in Latin America by M&A transaction volume, behind Brazil and Chile, with 307 deals in 2025, a slight decrease from 2024. Of these, 57 transactions were domestic, while 250 involved cross-border components.

Despite the contraction in deal volume, total transaction value increased significantly. The same report established that the aggregate value of transactions in Mexico reached USD32.510 billion, reflecting an 86% year-on-year increase.

1.2 Key Trends

M&A activity in Mexico during 2025 reflected a shift towards greater investor selectivity, with fewer transactions than the previous year but significantly larger deals. While overall deal volume declined, total deal value increased, suggesting a more strategic approach to acquisitions.

This increased selectivity may be linked to recent structural changes in the merger control landscape. In a context where more aggressive or consolidating transactions may face closer examination, investors appear to be factoring regulatory exposure more carefully into their deal strategies.

1.3 Key Industries

The leading sectors in the domestic market for M&A transactions during 2025 were Industry-Specific Software, which recorded 41 transactions, followed by Real Estate with 33 transactions. Travel, Hospitality & Leisure and Internet, Software & IT Services each registered 24 transactions during the year.

Transactions relating to Travel, Hospitality & Leisure increased by 14% in comparison to 2024. Additionally, some of the most notable M&A transactions in Mexico during 2025, based on their value, were in the infrastructure, energy, financial services and technology-related sectors.

2. Overview of Regulatory Field

2.1 Acquiring a Company

The main legal mechanisms for acquiring a private company in Mexico are:

- the acquisition of shares or corporate interests through the execution of purchase and sale agreements;
- the assignment of rights agreements or endorsements of the securities representing the capital stock of the company to be acquired;
- the acquisition of the entity's assets; and/or
- a merger with another entity.

The acquisition of publicly traded companies is carried out through a takeover or sale bid (*oferta pública de adquisición* or OPA).

2.2 Primary Regulators

The primary authority responsible for antitrust matters in M&A transactions in Mexico is the National Antitrust Commission (*Comisión Nacional Antimonopolio* or CNA).

Pursuant to the 2025 constitutional reform, the CNA replaced the former Federal Economic Competition Commission (*Comisión Federal de Competencia Económica* or COFECE), which had jurisdiction over competition matters in all sectors of the economy except telecommunications and broadcasting, as well as the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones* or IFT), which exercised competition and regulatory powers in the telecommunications and broadcasting sectors.

Unlike the COFECE and the IFT, which were constitutionally autonomous entities, the CNA is integrated within the Executive Branch.

In connection with M&A transactions involving publicly traded companies, the responsible authorities, also at the federal level, are the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores* or CNBV) and the Mexican stock exchanges (*Bolsa Mexicana de Valores* or BMV and *Bolsa Institucional de Valores* or BIVA).

In cases of specific industries, other authorities may be involved, such as the National Insurance and Surety Commission (*Comisión Nacional de Seguros y Fianzas* or CNSF) in the event that the relevant transaction relates to the insurance and surety sector.

From the local point of view – ie, of the states into which the country is divided – the authorities that are usually involved in M&A transactions are the Public Registries of Property (Legal Entities Section) in the case of entities such as corporations, or the Public Registry of Commerce (*Registro Público de Comercio* or RPC) in the case of commercial entities in each state.

2.3 Restrictions on Foreign Investments

Mexico is an open country where foreign investments are authorised in most industries and, therefore, foreign investors may participate in any proportion in the capital of Mexican companies. The Foreign Investment Law (*Ley de Inversión Extranjera* or LIE) defines foreign investment as the participation of foreign investors in the capital of Mexican companies, and said law provides the rules regarding the participation of foreign investors in various aspects of the Mexican economy and the industries where there are limitations. By way of example, some of the key limitations provided by the law are set out below:

- Domestic land transportation of passengers, tourism and cargo may only be rendered by Mexicans or Mexican companies with a foreigner exclusion clause.
- In co-operative production companies, foreign investment is limited to 10%.
- In the printing and publication of newspapers for exclusive circulation on Mexican territory, foreign investment may only be up to 49%; this limit may not be exceeded directly, nor through trusts, agreements, social or statutory covenants, pyramid schemes, or any other mechanism that grants control or a participation greater than that set forth.
- A favourable resolution from the National Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras* or CNIE) is required for foreign investment in a percentage greater than 49% in various activities – eg, port services to vessels to carry out their inland navigation operations.
- A favourable resolution of the CNIE is also required for Mexican companies in which foreign investors intend to participate, directly or indirectly, in a proportion greater than 49% of the capital, only when the total value of the assets of the relevant companies, at the time of submitting the acquisition request, exceeds the amount determined annually by the CNIE (at time of writing, MXN28,623,925,390.72 or approximately USD1.5 billion, as per the General Resolution determining the amount of total value of the assets referred to in Article 9 of the LIE, published in the Official Gazette of the Federation on 5 August 2025).

Foreign investment held indirectly through Mexican companies with majority Mexican capital is excluded from the calculation of foreign ownership limits, provided such companies are not controlled by foreign investors.

Notwithstanding statutory limits, the LIE permits "neutral investment" in restricted sectors, allowing foreign participation to exceed caps through authorised neutral shares with limited voting/control rights.

2.4 Antitrust Regulations

The antitrust regulations that apply to business combinations in Mexico are:

- Article 28 of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*) in matters of economic competition; and
- the Federal Antitrust Law (*Ley Federal de Competencia Económica*), along with its reform published on 14 November 2025. The Federal Antitrust Law sets forth which mergers must be notified to or, as the case may be, authorised by the CNA.

2.5 Labour Law Regulations

M&A transactions are primarily structured through the acquisition of shares or assets or through mergers and, depending on the structure of the transaction, in labour matters acquirers should primarily be concerned with the provisions applicable to employer substitution, when a transaction is structured as the acquisition of assets.

In terms of the provisions of the Social Security Law (*Ley del Seguro Social*), it is considered that there is a substitution of employer when there is a transfer, by any title, between the substituted employer and the new employer of the essential assets related to the operation, with the intention of continuing with it, and when the partners or shareholders of the substituted employer are, for the most part, the same as those of the new employer and it is the same line of business. For the employer substitution to take effect in accordance with the Federal Labour Law (*Ley Federal del Trabajo* or LFT) and criteria issued by Mexico's judiciary branch, the transfer of assets must also take place.

In the event of employer substitution, the substituted employer will be considered jointly and severally liable with the new employer for labour obligations to the employees that originated prior to the date on which the Mexican Social Security Institute (*Instituto Mexicano del Seguro Social* or IMSS) was notified of the substitution, for up to six months, at the end of which time all liabilities are attributable to the new employer. In terms of the LFT, the six-month term starts on the date on which notice of the substitution was given to the union or to the employees.

However, employer substitution can be overcome in the event that the original employer terminates the labour relations in legal terms and that, subsequently, the acquirer enters into new employment relations with the employees and, if applicable, with the respective labour union.

It is also important to consider from a labour perspective, when the transaction is structured as a merger between two or more entities, that they will probably have different unions even when it is the same industry, and it is therefore important to negotiate with the unions before the transaction is closed.

Upcoming Reforms

There are certain upcoming key reforms to be considered from a labour standpoint in M&A transactions, such as the reduction of the current maximum weekly work shift from 48 to 40 hours, which may lead into operational complexities especially for manufacturing industries with regard to the payment of overtime or implementing additional shifts through the hiring of extra personnel to cover up operational needs.

The changes to employment conditions through recent reforms, such as yearly substantial increases to minimum wages since 2019, the increase in the amount of holidays and now the reduction of work shifts, represent an improvement to employees throughout Mexico; however, these changes within short periods of time trigger uncertainty for employers and material increases in operational costs, mainly for industries where a certain workforce is required.

2.6 National Security Review

In Mexico, there are no national security review processes that need to be cleared for transactions to be completed, as is the case for example in the USA with FIRRMA or in the European Union. As mentioned in **2.3 Restrictions on Foreign Investments**, Mexico's market is generally open to foreign investment. However, due to Mexico's proximity to the USA, its close relationship and market integration resulting from the United States–Mexico–Canada Agreement (USMCA), which will be completely renegotiated this year, it is probable that in the case of certain industries similar to those protected in the USA, there will be the need to obtain a national security authorisation for a transaction to be authorised.

3. Recent Legal Developments

3.1 Significant Court Decisions or Legal Developments

Judicial Reform

Recent judicial reforms in Mexico have introduced uncertainties affecting the investment climate. Changes perceived as politicising the judiciary have raised concerns among foreign investors regarding the impartiality and predictability of legal proceedings. Foreign investors have raised concerns about legal certainty, particularly in government procedures such as tax issues or concessions. In some cases, businesses have encountered delays in court proceedings, inconsistent application of laws, and perceived government influence in judicial matters. These developments have led investors to re-evaluate their legal strategies when entering the Mexican market and

have prompted investors to consider alternative dispute resolution mechanisms, such as arbitration, to safeguard their interests in M&A transactions.

Opening New Markets

Notable recent legal developments relevant to the M&A transactions market in Mexico include those that involve the opening of various markets or industries at the national level – for example, the fintech market, including crowdfunding and electronic payment fund institutions and, in general, other players in the fintech ecosystem, such as insurtech and regtech.

The USMCA, which will be renegotiated this year, has managed to consolidate a legal framework for trade among the three countries and has provided additional incentives for companies looking to move their operations to Mexico. The upcoming negotiation is expected to be complex; however, it is anticipated that it will ultimately provide greater legal certainty, particularly in areas that have undergone significant constitutional changes, including the judicial reform introducing the popular election of federal judges.

Additionally, there is a trend in M&A transactions of European and US companies that have operations in Asian markets acquiring existing Mexican companies with the intention of moving their manufacturing activity to the USMCA area.

Shareholder Rights

The General Law of Commercial Companies (*Ley General de Sociedades Mercantiles* or LGSM) allows shareholders of corporations (*sociedades anónimas*) to enter into agreements that were previously associated with stock investment promotion corporations (*sociedades anónimas promotoras de inversión* or SAPIs) under the Securities Market Law (*Ley del Mercado de Valores* or LMV).

Thus, shareholders may agree on mechanisms that modify voting rights, such as issuing non-voting or limited-voting shares, granting specific corporate rights, or establishing veto powers and special approval requirements. They may also enter into arrangements such as drag-along and tag-along rights, call and put options, subscription obligations, transfer restrictions, dispute-resolution mechanisms, and limitations on directors' and officers' liability.

Supreme Court Decisions

There are few judicial decisions that have been resolved and that have had an impact on M&A transactions. In the last decade, there has only been one decision that has been issued by the Mexican courts in this regard, namely the jurisprudence with digital registry number 2004913 dated 2013 regarding the moment at which the merger of commercial companies takes place with regard to tax matters. This decision sets forth that the merger – as a complex and contractual corporate business operation, developed in several successive stages and producing tax effects, among which are the early termination of the merged companies' fiscal year – does not depend on the registration of the merger agreement in the RPC but is complete from the moment the merger contract or agreement is signed (except when there has been judicial opposition in the summary proceeding by any creditor, provided that it has been declared founded).

3.2 Significant Changes to Takeover Law

Originally, takeover law for private companies was provided for in the LMV applicable to SAPIs; however, the amended LGSM includes provisions that grant shareholders the possibility of agreeing, among themselves, rights and obligations that set forth purchase or sale options of the shares representing the capital stock of the company. These include:

- that one or several shareholders may only dispose of all or part of their shares, when the acquirer is also obliged to acquire a proportion or all of the shares of another or other shareholders, under the same conditions;
- that one or more shareholders may require another shareholder or shareholders to dispose of all or part of their shares, when the former accepts an offer of acquisition, under the same conditions;
- that one or more shareholders have the right to dispose of or acquire from another shareholder, who shall dispose of or acquire, as the case may be, all or part of the shares that are the object of the transaction, at a determined or determinable price;
- that one or more shareholders be obliged to subscribe and pay for a certain number of shares

representing the capital stock of the company, at a determined or determinable price; and
- other rights and obligations of a similar nature.

The aforementioned provisions have not been modified in the last 12 months and there are at time of writing no pending legislative initiatives that would result in significant amendments in the short term.

4. Stakebuilding

4.1 Principal Stakebuilding Strategies

It is common for a bidder to build a stake in the target prior to launching an offer. In this case, the applicable provisions of the target company's articles of incorporation and by-laws, the disclosure obligations under the LMV and the general provisions issued by the CNBV for takeover bids that will be explained throughout this guide, must be taken into consideration.

4.2 Material Shareholding Disclosure Threshold

Public Companies

In Mexico, there are different material shareholding disclosure thresholds and filing obligations. Some of these are included below for explanatory purposes but they should not be considered as the only disclosure or notification obligations under Mexican law.

In terms of the provisions of the LMV, any person who holds less than 10% of the capital stock of an issuer, and acquires, directly or indirectly, shares of an issuer or securities or instruments that grant rights over such shares, must inform the CNBV and the stock exchange, for dissemination among the investing public, no later than the business day following the deal's closing, of any circumstance that results in a shareholding position equal to or greater than 10% but less than 30% of the capital stock of the relevant issuer.

Likewise, insiders and related persons of the issuer who increase by 5% the holding of shares of the issuer to which they are related must communicate such circumstance to the CNBV and the stock exchange, so that the latter may disseminate it among the investing public no later than the business day following its acquisition.

A person or persons who directly or indirectly own 10% or more of the shares representing the capital stock of corporations registered in the National Securities Registry (*Registro Nacional de Valores* or RNV), as well as the members of the board of directors and relevant officers of such corporations, must inform the CNBV and, in certain cases, the public, of any acquisitions or disposals of such securities.

It is also important to consider that any individual or group of persons who intend to acquire or attain by any means, directly or indirectly, the ownership of 30% or more of the voting stock of a corporation registered in the RNV must comply with the mandatory tender offer (OPA) regime under the LMV.

Private Companies

In regard to private companies, it is important to consider that the entries in the special partners' book and in the shares registry book must be published in the electronic system established and managed by the Ministry of Economy (*Secretaría de Economía*).

4.3 Hurdles to Stakebuilding

In Mexico, it is possible to include in by-laws, or in private agreements entered into by and between shareholders, reporting thresholds different from those provided for in the law provided that they impose more restrictive obligations and ensure, at a minimum, compliance with the applicable legal requirements.

4.4 Dealings in Derivatives

Dealing in derivatives is allowed under Mexican laws, such as the LMV and the provisions issued by the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*) and the CNBV, which have allowed the development and operation of a derivatives market in Mexico. Under Mexican law, derivative financial instruments include securities, contracts or any other legal act whose valuation is derived from one or more underlying assets, securities, rates or indices.

4.5 Filing/Reporting Obligations
Reporting obligations applicable under Mexican laws are no different in the case of dealings in derivatives.

4.6 Transparency
Pursuant to the terms of the General Provisions Applicable to Securities Issuers and Other Securities Market Participants (*Disposiciones de Carácter General Aplicables a las Emisoras de Valores y a Otros Participantes del Mercado de Valores* or the Issuers' Provisions), particularly Exhibit K regarding the instructions for drafting the prospectuses for tender offers, the documents that need to be filed with the CNBV jointly with the application to obtain authorisation for a voluntary or mandatory tender offer must include, among other elements, the intention and justification of the transaction as well as the purposes, plans and consequences of the offer.

5. Negotiation Phase

5.1 Requirement to Disclose a Deal
In order to know the stage when, and the authorities before which, a deal must be disclosed, it will be necessary to consider the type of industry involved as well as to determine whether it will require authorisation from the CNA.

In general terms, the obligation to notify or obtain authorisation from the CNA, if required, must be made before the consummation of the deal. This means any of the following:

- the relevant legal act giving rise to the transaction has been perfected in accordance with applicable law (which may include, among other elements, the execution of a binding agreement and/or the satisfaction of any applicable conditions precedent, but is not limited thereto);
- effective control over an entity has been obtained, whether directly or indirectly;
- a binding agreement giving rise to the concentration has been executed; or
- in the case of staged or multi-step transactions, the final step has been taken that results in the applicable notification thresholds being exceeded.

If the notice is submitted later, it is considered untimely and may result in sanctions, in addition to any applicable administrative, civil and criminal liability of the economic agents and of the persons who ordered or assisted in the execution.

In the case of deals involving public companies, additional disclosure obligations may apply under securities regulations. Thus, for example, as indicated in **4.2 Material Shareholding Disclosure Threshold**, the disclosure of an acquisition of certain percentages must be made no later than the business day following the closing of the deal. On the other hand, in terms of the provisions of Mexican stock exchange legislation, issuers must disclose through the stock exchange where their securities are listed, for immediate dissemination to the public, the relevant events defined by the law itself at the time they become aware of them together with all the relevant information in connection with such events.

For private companies, the obligation to file notice of the execution of a deal to the Ministry of Economy, in terms of the provisions of the LGSM, and to the tax authority (*Servicio de Administración Tributaria* or SAT), in accordance with Article 27 of the Federal Tax Code, arises once the deal has been closed.

5.2 Market Practice on Timing
Market practices regarding disclosure do not usually differ from legal requirements.

5.3 Scope of Due Diligence
In the case of business combinations, the practice is for a complete and thorough due diligence to be performed, as in other acquisitions. The scope of due diligence varies depending on the nature of the target company, industry, regulations, deal structure, location of the business and potential risks. Given that Mexico operates under a federal system, due diligence processes should cover federal, state and municipal compliance. A due diligence process generally covers the following key areas.

1. Corporate and Legal Due Diligence
- Review of the company's corporate structure, by-laws and shareholder agreements to ensure

compliance with the LGSM and other applicable regulations.
- Verification of the legal standing of the company, including corporate records, board and shareholder meeting minutes, and any special rights granted to shareholders.
- Analysis of past and pending corporate transactions, including mergers, spin-offs, joint ventures, and capital increases or decreases.
- Review of any foreign investment restrictions or compliance with the LIE, if applicable.

2. Regulatory and Compliance Due Diligence

- Assessment of compliance with industry-specific regulations and requirements issued by Mexican regulatory authorities, such as the CNBV, the CNA, the SAT, PROFECO (consumer protection authority), COFEPRIS (health authority), CNE and SENER (energy authorities) and labour regulators.
- Evaluation of permits, licences, authorisations, concessions and governmental approvals required for operations.
- Verification of compliance with anti-money laundering and anti-corruption laws, including adherence to the Federal Law on the Prevention and Identification of Transactions with Illicit Proceeds (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*).
- Review of environmental compliance, especially for industries subject to oversight by the Ministry of Environment and Natural Resources (*Secretaría del Medio Ambiente y Recursos Naturales*).

3. Financial Due Diligence

- Examination of the company's audited and unaudited financial statements, tax returns and accounting policies to assess financial stability and accuracy.
- Identification of contingent liabilities, undisclosed debts or off-balance-sheet obligations and compliance with GAAP standards.
- Analysis of working capital, cash flow and financial projections to determine profitability and financial health.
- Review of existing loans, credit facilities and financial covenants that could impact the transaction.

4. Tax Due Diligence

- Review of the target's tax compliance history, including VAT, corporate income tax, payroll taxes, and federal, state, municipal and international tax obligations.
- Analysis of any tax audits, disputes or litigation with the SAT.
- Identification of tax benefits, exemptions or risks associated with past transactions.

5. Labour and Employment Due Diligence

- Review of employment agreements, management agreements, golden parachutes, collective bargaining agreements and independent contractor arrangements to assess compliance with the LFT.
- Identification of severance liabilities, unpaid benefits and potential labour disputes.
- Examination of employee benefit plans, pension obligations, and compliance with the labour laws, with internal policies and with social security (IMSS) and housing fund (INFONAVIT) contributions.
- Assessment of outsourcing or subcontracting structures in compliance with recent labour law reforms.

6. Contracts and Commercial Due Diligence

- Review of key customer and supplier contracts, distribution agreements, and franchise or licensing arrangements, usually with an amount and duration materiality threshold.
- Identification of change-of-control provisions, termination clauses and restrictive covenants that could be triggered by the business combination.
- Assessment of any outstanding obligations, warranties or indemnities that could pose risks post-transaction.

7. Litigation and Dispute Due Diligence

- Review of past, pending or threatened litigation, arbitration or administrative proceedings.
- Analysis of intellectual property disputes, shareholder disputes or labour claims that could affect the transaction.
- Verification of governmental investigations or regulatory actions against the company.

8. Intellectual Property (IP) Due Diligence

- Review of trade marks, patents, copyrights, trade secrets and software rights owned or licensed by the company.
- Identification of potential IP licensing issues.
- Verification of IP registrations with the Mexican Institute of Industrial Property (*Instituto Mexicano de la Propiedad Industrial* or IMPI) and compliance with applicable laws.

9. Real Estate and Asset Due Diligence

- Examination of ownership titles, lease agreements and land use permits for company properties.
- Verification of encumbrances, mortgages or liens affecting real estate assets.
- Compliance with zoning and environmental regulations related to owned or leased properties.

10. Competition and Antitrust Due Diligence

- Evaluation of market concentration risks and compliance with antitrust regulations enforced by the CNA.
- Identification of anti-competitive practices, exclusive agreements or market dominance concerns.
- Assessment of whether the business combination triggers mandatory pre-merger notification requirements under Mexican antitrust law.

5.4 Standstills or Exclusivity

Both standstill and exclusivity arrangements or provisions are usually included in M&A transactions in Mexico. Rather than in contracts, in practice they are included as clauses or provisions in letters of intent and term sheets or other documents setting forth exclusivity until the contract is signed, authorisations are obtained and standstills restricting certain activities – such as sale of assets, salary increases and sales promotion – are agreed.

While standstill and exclusivity provisions are generally enforceable under Mexican law, they must be carefully drafted to ensure clarity on scope, duration, and potential penalties for breaches.

5.5 Definitive Agreements

Mexican laws allow for tender offer terms and conditions to be documented in a definitive agreement.

6. Structuring

6.1 Length of Process for Acquisition/Sale

There is no defined timeframe for a sale and purchase process but, depending on the complexity of the negotiation and the need to obtain government authorisations to carry it out, it could take months. A merger authorisation process before the CNA or other authorities, depending on the relevant industry, may take more than six months if the relevant authority considers that it is a complex case. In the banking sector, authorisation must be obtained from the CNBV, which must have the positive opinion of the Mexican central bank, the Bank of Mexico (*Banco de México*), to authorise an acquisition of shares.

6.2 Mandatory Offer Threshold

In the case of private companies, there is no threshold determined by law that requires an offer to be made for a certain number of shares.

However, in the case of public companies, and as discussed in **6.4 Common Conditions for a Takeover Offer**, if there is an intention to acquire 30% or more of the ordinary shares of a company registered in the RNV, a mandatory takeover bid must be made, which is subject to the following terms and conditions:

- The offer shall be extended to the different series of shares, including those with limited, restricted or non-voting rights.
- The consideration shall be the same, regardless of the class or type of share.
- The offeror shall disclose the commitments assumed with the company or with the holders of the securities it intends to acquire.
- The offer shall be made:
  - (a) for the percentage of the capital stock of the company equivalent to the proportion of common shares sought to be acquired in relation to the total of such shares or for 10% of such capital, whichever is greater, provided that the offeror limits its final holding on the occasion of the offer to a percentage that does not imply obtaining control of the company; or
  - (b) for 100% of the capital stock when the offeror intends to obtain control of the company.

- The offer shall indicate the maximum number of shares to which it applies and, where applicable, the minimum number of shares upon the acquisition of which the offer is conditioned.

6.3 Consideration

The payment of the consideration for the acquisition of shares or equity securities with cash is more common in Mexico than swaps for other shares or equity securities, a combination of shares and cash, or a merger.

Depending on the industry involved in the M&A transaction, formulas can be determined so that, at the closing date, the final amount of the consideration to be paid can be determined, avoiding valuation uncertainty, for example, in transactions related to the electricity industry or the financial market. The Issuers' Provisions in the case of tender offers allow the prospectus that is to be filed with the CNBV to set forth the consideration to be paid in terms of the types of securities offered in exchange (instead of a consideration in cash), as well as the procedure for calculating the exchange value.

Said provisions also set forth that the public offering notice submitted to the CNBV for its authorisation may omit information regarding the definitive price and amount, as well as information that can only be known up to the day prior to the beginning of the public offering.

6.4 Common Conditions for a Takeover Offer

Voluntary Tender Offer

Voluntary tender offers are subject to the following terms and conditions determined by the regulator:

- The minimum term of the offer shall be 20 working days.
- Offer allocation shall be on a pro rata basis.
- The offer and its terms may be modified at any time before it is completed, provided that: (a) the changes are more favourable to the offerees; or (b) such modifications are expressly allowed in the relevant prospectus.
- If the modification is significant, the offer period must be extended for at least five business days.
- Any modifications must be disclosed to the public through the same channels used to announce the original offer.
- From the moment the offeror launches the offer and until its completion, the offeror may not, directly or indirectly, carry out transactions involving the securities subject to the offer outside of the offer itself.

Mandatory Tender Offer

If the intention is to acquire 30% or more of the common shares of a company registered in the RNV, a mandatory tender offer must be made, which is subject to the following terms and conditions:

- The offer shall be extended to the different series of shares, including those with limited, restricted or non-voting rights.
- The consideration shall be the same, regardless of the class or type of share.
- The offeror shall disclose the commitments assumed with the company or with the holders of the securities it intends to acquire.
- The offer shall be made:
  - (a) for the percentage of the capital stock of the company equivalent to the proportion of common shares sought to be acquired in relation to the total of such shares or for 10% of such capital, whichever is greater, provided that, as a result of the offer, the offeror limits its final ownership to a percentage that does not result in obtaining control of the company; or
  - (b) for 100% of the capital stock when the offeror intends to obtain control of the company.

The offer shall specify the maximum number of shares to which it applies and, where applicable, the minimum number of shares upon the acquisition of which the offer is conditioned.

Issuer Provisions

Mexican law permits any condition if it is not contrary to or prohibited by public interest laws. The Issuers' Provisions provide that the prospectus to be filed with the CNBV must indicate whether there are any conditions to which the offer is subject. The most common condition in Mexico for takeover offers is the authori-

sation of the transaction by the CNA and the CNBV in the case of acquisitions of public companies.

6.5 Minimum Acceptance Conditions

The control threshold in Mexico applicable to tender offers is that the person or group of bidders seeking to obtain control of an issuer by means of a tender offer for less than 100% of the capital stock when the bidder intends to obtain control of the company must complete their application to obtain the corresponding authorisation from the CNBV.

On the other hand, those who, by making a tender offer for less than 100% of the capital stock, cause less than 12% of the paid-in capital stock of the issuer to remain among the investing public are required to extend the offer or to make a second tender offer within 30 days for up to 100% of the capital stock of the issuer on the same conditions on which the original tender offer was made.

6.6 Requirement to Obtain Financing

There are no prohibitions under Mexican laws upon a business combination being conditional on the bidder obtaining financing.

6.7 Types of Deal Security Measures

From a general perspective, there are no limitations with respect to the kinds of deal security measures that a bidder may request, including break-up fees, match rights, force-the-vote provisions and non-solicitation provisions. However, there may be internal limitations provided in the by-laws of the target entity or legal limitations inherent to the security measures, for example, the impossibility of break-up fees that are established as a conventional penalty exceeding the value and amount of the main obligation.

The Issuers' Provisions provide that the prospectus to be filed with the CNBV may include a mention of the right to decline the offer in the event of amendments to the offer that are significant in the opinion of the CNBV. There have been certain changes, for instance, in relation to the interpretation of certain provisions, particularly with regard to material adverse changes, material adverse effects, force majeure, acts of God, etc. Parties should make the wording as concise and clear as possible in order to be able to identify precisely whether one of the clauses listed therein applies in a given case and to limit its effects depending on its duration, the percentage or part of the business that is affected, and government directives.

6.8 Additional Governance Rights

If a bidder does not seek to acquire 100% ownership of a company in Mexico, it can negotiate additional governance rights to protect its investment and influence key corporate decisions. These rights are typically formalised through amendments to the company's by-laws, shareholders' agreements or other contractual arrangements, ensuring enforceability.

Common governance rights include:

- *Board representation:* The right to appoint a proportional or specific number of board members, including independent directors or key executives.
- *Veto rights:* The ability to block certain corporate actions, such as mergers, asset sales, capital increases, dividend distributions, or amendments to the by-laws.
- *Supermajority requirements:* The requirement that certain strategic decisions receive a higher percentage of shareholder approval, ensuring the bidder's consent in major transactions.
- *Reserved matters:* The obligation to obtain the bidder's prior approval for critical decisions, such as changes in business strategy, indebtedness above certain thresholds, or related-party transactions.
- *Tag-along and drag-along rights:* The ability to join a sale of shares (tag-along) or force minority shareholders to sell (drag-along) in future exit scenarios.
- *Pre-emptive and anti-dilution rights:* Protection against ownership dilution by securing preferential rights in future capital increases.

These governance rights must comply with the LGSM and, in the case of public companies, the LMV. For publicly traded targets, any shareholder agreements affecting corporate control must be disclosed to the CNBV to ensure transparency and regulatory compliance.

6.9 Voting by Proxy

The representation of the shareholders or partners of any company is possible and common through a

power of attorney granted before two witnesses. No notarisation or legalisation is usually required. Usually, the representation or the form of representation is regulated by the provisions of the by-laws of the company.

In the case of public companies, shareholders may be represented by persons who can prove their faculties of representation by means of proxy forms drafted by the company and made available to them through stock market intermediaries or the company itself, at least 15 calendar days prior to the date of the meeting. In addition, in order to participate in the relevant meetings, the share certificates must be deposited with the central securities depository, *S.D. Indeval, Institución para el Depósito de Valores*, which will issue a certificate of deposit evidencing said situation.

6.10 Squeeze-Out Mechanisms

Some squeeze-out mechanisms used in Mexico are strategies to modify the capital stock of companies or agreements related to the purchase of shares that companies may foresee in their articles of incorporation and by-laws or even in agreements between shareholders. The LGSM provides that the by-laws may include grounds for exclusion of partners or grounds to exercise separation rights, withdrawal rights or rights to redeem shares, as well as the price or the basis for its determination.

6.11 Irrevocable Commitments

It is possible but not common to obtain both irrevocable and revocable offers or voting commitments from major shareholders of the target company. Negotiations with shareholders can be conducted at any stage of the deal. For the fulfilment of this type of commitment, it would be possible to grant irrevocable powers of attorney of the obligor, allowing the attorney-in-fact to exercise voting rights. This type of commitment and the granting of such irrevocable powers of attorney allowing the voting of shares are particularly common in M&A transactions involving financing and the granting of collateral.

7. Disclosure

7.1 Making a Bid Public

A distinction must be made between private and public transactions, since in the first case there is no regulation that obliges the parties to disclose a transaction publicly; the parties involved are free to decide whether to make the transaction public and, if so, at what time. Usually, a press release is made for significant transactions once they have been authorised by all the corresponding regulatory authorities.

In the case of public companies, the parties have an obligation to disclose any relevant event that may affect the value of their shares, so the confidentiality of the negotiations must be handled carefully until a takeover bid is carried out. The relevant information related to the request for authorisation of the tender offer must be disclosed to the public on the day of the commencement of the tender offer. In the event of relevant changes with respect to the information disclosed, the same must be substituted.

7.2 Type of Disclosure Required

For the issuance of shares of a private company, it is not necessary to make any kind of prior disclosure for a business combination to take place. If the combination is carried out through a merger, the merger agreements must be published in the RPC and in the electronic system established by the Ministry of Economy, along with the last balance sheet of each company involved and the system set forth for the extinction of the liabilities of the company or companies that will cease to exist.

In the case of issuers of securities registered in the RNV, they are required to submit to the CNBV and the stock exchange on which their securities are listed the relevant information for immediate dissemination to the general public, through various reports, including reports on corporate restructurings such as mergers, spin-offs, acquisitions or sales of assets.

Finally, according to the Issuers' Provisions, specifically those regarding the instructions for drafting prospectuses, these must contain the purposes and plans of the offeror after the public offering – ie, once it has been approved.

7.3 Producing Financial Statements
In general terms, bidders do not need to produce financial statements in their disclosure documents.

7.4 Transaction Documents
Private companies are not required to disclose transaction documents in full. In the case of public companies, the Issuers' Provisions do provide for the delivery of copies of contracts, acts or prior agreements with other buyers, shareholders and directors of the issuer, that are related to the issuer, its shares or the purchase offer, including the existence of facts or verbal agreements and their result and the draft brokerage agreement to be entered into by the offeror and the intermediary and through which the purchase offer will be made.

8. Duties of Directors

8.1 Principal Directors' Duties
The main responsibilities or duties of directors in the event of a business combination of private companies will derive from the LGSM, the by-laws of each of the companies involved, the meetings at which each of them agrees to merge and the respective merger agreement.

Public companies, both investment promotion corporations (s *ociedades anónimas promotoras de inversión*) and stock exchange corporations (*sociedades anónimas bursátiles*), may adopt for their administration and supervision the same or a different regime regarding their integration, organisation and operation. The directors (who must act in good faith and in the best interests of the company and the legal entities it controls, and must not fail in their duty of diligence) and the chief executive officer of the company may be subject to the provisions relating to the organisation, functions and responsibilities set forth in the LMV; otherwise, they will be subject to the regime of organisation, functions and responsibilities set forth in the LGSM.

In accordance with stock exchange legislation, the members of the board of directors must perform their duties in such a way as to create value for the benefit of the company without favouring a particular shareholder or group of shareholders.

8.2 Special or Ad Hoc Committees
It is common for boards of directors to establish special ad hoc committees in business combinations, including those that may be used when one or more directors have a conflict of interest. In the latter case, additionally, the members of the board of directors who have a conflict of interest in any matter must abstain from participating in the deliberation and voting on the respective matters.

8.3 Business Judgement Rule
In the case of public companies, the Mexican courts assume that the members and secretary of the board of directors of publicly traded companies, who have a conflict of interest in any matter, will abstain from participating in the deliberation and voting on such matters.

The same happens in the case of private companies, where the law presumes that directors who have an interest opposed to that of the company must declare it to the other directors and abstain from all deliberations and resolutions, considering that a director who contravenes this provision will be liable for the damages caused to the company.

8.4 Independent Outside Advice
In the case of private companies in Mexico, external auditors are usually a form of independent outside advice, while in the case of public companies, the external auditor of the company may also be called to the meetings of the board of directors, as a guest with a voice but without a vote. Auditors must abstain from being present with respect to those matters on the agenda in which they have a conflict of interest or that may compromise their independence, and in many contexts an opinion issued by them will be required.

Likewise, it will be important to consider the requirements set forth by the stock exchange legislation regarding the members of the board of directors who must comply with the "independence" requirement and who must be selected for their experience, capacity and professional prestige, also considering that, due to their characteristics, they may perform

their functions free of conflicts of interest and without being subject to personal, patrimonial or economic interests.

8.5 Conflicts of Interest

The courts in Mexico have not produced many significant precedents with respect to conflicts of interest of directors, managers, shareholders or advisers; however, the legislation on the matter is extensive and quite complete.

9. Defensive Measures

9.1 Hostile Tender Offers

The LMV does not prohibit hostile takeovers and even recognises the right of companies to agree mechanisms in their by-laws that allow them to defend themselves against this type of operation.

Notwithstanding the above, it is important to mention that the Mexican securities market is very small in comparison with those of other jurisdictions such as the USA, which has a large number of listed companies and a very dynamic market. The only case in which a hostile takeover was intended to take place in Mexico was in 2015, and the target company had a mechanism to prevent a hostile takeover of the company that was declared valid by the Mexican Supreme Court. In 2021, there was another attempt at a hostile takeover between publicly listed real estate companies; however, after the implementation of a poison pill, the parties involved reached an agreement for the acquisition.

9.2 Directors' Use of Defensive Measures

The directors may use defensive measures against a takeover if these faculties are provided for in the by-laws of the target company, since neither the LMV nor the LGSM provide – in the catalogue of powers of attorney of the board of directors – for the use of defensive measures before a takeover. In general, this power of attorney is provided for in the shareholders' meeting.

In the event that such a power of attorney for the directors is not provided for in the by-laws, the participation of the board of directors could occur as long as they present to the meeting the information to which they have had access, or on the basis of which they consider it appropriate to reject a transaction and therefore make use of the defensive measures available to the company.

9.3 Common Defensive Measures

The by-laws may include clauses setting forth measures to prevent the acquisition of shares that grant control of the company to third parties or to the shareholders themselves, either directly or indirectly, provided that such clauses:

- are approved at an extraordinary general shareholders' meeting at which 5% or more of the capital stock represented has not voted against them;
- do not exclude one or more shareholders, other than the person seeking to obtain control, from the economic benefits;
- do not absolutely restrict the acquisition of control of the company; and
- do not contravene the provisions of the Securities Market Law for mandatory takeover offers or nullify the exercise of the acquirer's economic rights.

The hostile takeover prevention measure provided for in the by-laws of a target company, in the first example mentioned in **9.1 Hostile Tender Offers**, was a 10% shareholding limit scheme. The company that wanted to carry out the hostile takeover reached a stake of almost 25% of the target company's capital. The Mexican Supreme Court, in ruling on the validity of the defence mechanism of the target company, obliged the purchaser to reduce its equity interest to the limit established in the by-laws of 10%. The second example mentioned in **9.1 Hostile Tender Offers** included the implementation of a poison pill by the target company.

9.4 Directors' Duties

Directors must generally comply with the duties of diligence and loyalty to the company and its shareholders, which translates into acting in good faith and in the best interest of the company, specifically:

- having sufficient information to make decisions;
- requesting the opinion of experts who can provide information for making decisions;

- adjourning board meetings if it is not considered that sufficient or necessary information is available to make decisions; and
- avoiding participating in deliberations and decision-making if there is a conflict of interest on the part of the relevant director.

These duties are applicable to a possible acquisition. The decision to carry out a transaction or not must be based on relevant and sufficient information to identify whether the transaction involves a benefit for the company, and without there being a conflict of interest. When determining the use of defensive measures to prevent a transaction, the directors should evaluate whether they are causing harm to the company and consequently failing to comply with their fiduciary duties.

9.5 Directors' Ability to "Just Say No"

The faculties of directors are usually provided for and delimited in the by-laws of the companies; their authority to oppose a transaction must be provided for in such by-laws or in the law. In any case, the directors must act in accordance with their duties of diligence and loyalty, even in the case of private companies to which the LGSM applies. Although the LGSM does not expressly provide for such duties – whereas the LMV does – it does consider the exercise of a liability action against the directors in the event of damage being done to the company, which occurs when the aforementioned fiduciary duties are not complied with.

In the case of public companies, it should be noted that, according to the LMV, the possibility of implementing measures to prevent a takeover of a company is subject to certain requirements and conditions (as mentioned in **9.3 Common Defensive Measures**) that the directors must consider and comply with if they consider that it is necessary to make use of such mechanisms.

10. Litigation

10.1 Frequency of Litigation

M&A litigation is still uncommon in Mexico, other than with respect to indemnification obligations under the PSAs.

10.2 Stage of Deal

Most of the litigation that exists in this area relates to agreements between shareholders, and general agreements regarding the exercise of voting rights, compulsory purchases of shares, options, the tax effects of mergers and acquisitions, etc. As noted, M&A litigation is still uncommon in Mexico.

10.3 "Broken-Deal" Disputes

Although there are few judcial prcedents on the subject of broken-deal disputes, from recent transactions related to the matter we can infer the clear importance of an in-depth analysis of defence mechanisms in hostile takeovers, and the compliance of such mechanisms with the applicable provisions.

11. Activism

11.1 Shareholder Activism

Shareholder activism in Mexico in an attempt to provoke a change within the company or in the favour of the activists is considered an important force when the relevant shareholder has control or a significant percentage of the capital stock of public or private companies. Likewise, shareholders may play an important role in the decision-making process by being part of committees or even on the boards of directors of such companies. It will be important to consider the existence of minority rights provided for in the relevant legislation.

Mexican law provides strong protections for minority shareholders under the LGSM and the LMV. Shareholders representing at least 10% of a company's capital stock in public companies can request the Chair of the Board or the committees responsible for corporate practices and auditing to convene a general shareholders' meeting at any time. This right applies only to publicly traded companies whose shares are registered in the RNV. In private companies, minority shareholders may negotiate veto rights, supermajority voting thresholds or board representation to protect their interests; however, at least 33% of the capital stock is necessary to request a shareholders' meeting. Legal and regulatory barriers, along with concentrated ownership structures in many Mexican companies,

can limit the effectiveness of shareholder activism compared with other jurisdictions.

11.2 Aims of Activists

Activist shareholders typically focus on the following:

- *Environmental, social and governance issues:* Pressuring companies to adopt sustainable practices and improve social responsibility.
- *Corporate governance reforms:* Demanding greater transparency, accountability and independent board oversight.
- *Management and board changes:* Seeking the removal or replacement of underperforming executives or pushing for board representation.
- *Dividend policies and capital allocation:* Advocating for higher dividends, share buybacks or better capital deployment to enhance shareholder value.
- *M&A influence:* Blocking or pushing for M&A transactions that align with their strategic interests.

In the second example mentioned in **9.1 Hostile Tender Offers**, a case of shareholder activism was responded to by the target company with the implementation of a poison pill to compel the buyer to modify the terms for the acquisition. However, in Mexico, many public listed companies are family-owned, which appears to result in the relative unlikeliness of shareholder activism for these types of company.

11.3 Interference With Completion

In Mexico, activists interfering with announced transactions is not common, except through the aforementioned mechanisms for exercising shareholding rights.

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