



National Banking and Securities Commission (Mexico) Comisión Nacional Bancaria y de Valores (CNBV)

Country	Location	Regulated area
Mexico	Mexico City	Banking

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Key individuals

- Jesús de la Fuente Rodríguez, President
- Víctor Manuel Carrillo Ramos, Legal Vice President
- Aurora Cervantes Martínez, Regulatory Vice President
- Lucía Buenrostro Sánchez, Regulatory Policy Vice President
- Francisco Javier Vega Rodríguez and José Ramón Canales Márquez, Vice Presidents of Supervision of Preventive Processes
- Itzel Moreno Macías García, Securities Market Supervision Vice President
- Anselmo Moctezuma Martínez, Technical Vice President
- Vacant – Preventive Processes Vice President

Regulatory oversight

In general terms, activities related to the financial system are subject to prior authorisation to initiate operations; general and specific regulations depending on the sector; and supervision, compliance control and sanctions.

The authorities that oversee the financial system are:

- Secretaría de Hacienda y Crédito Público (SHCP): Ministry of Finance and Public Credit
- Banco de México: Bank of Mexico;
- Comisión Nacional Bancaria y de Valores (CNBV): National Banking and Securities Commission;
- Comisión Nacional de Seguros y Fianzas (CNSF): National Insurance and Bonding Commission;
- Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros (CONDUSEF): National Commission for the Protection and Defence of Users of Financial Services;
- Comisión Nacional del Sistema de Ahorro para el Retiro (CONSAR): National Commission of the Retirement Saving System; and
- Instituto para la Protección al Ahorro Bancario (IPAB): Institute for the Protection of Bank Savings.

The CNBV oversees, among others, the entities listed below. Please note that the following classification is ours, and such distinction is for academic purposes, considering the degree or intensity of regulation to which the participants of the different areas of the financial system are subject.

The intensity of regulation depends on a specific rationale or purpose: for example, for regulated financial entities, this is to protect members of the general public and their savings, and for securities issuers, this is to enforce disclosure to eliminate market information asymmetries.

a. Regulated financial entities:

- financial and bank holding companies;
- banking institutions;
- brokerage firms; and
- investment funds.

b. Securities issuers.

c. Securities-related activities:

- stock exchanges;
- securities depository institutions;
- investment fund distributors; and
- securities rating institutions.

d. Less regulated entities:

- certain non-bank banks;
- credit auxiliary entities;
- fintech companies;
- money transmitters;
- savings and loans institutions;
- credit bureaus; and
- certain public funds that participate in the financial system.

e. Payment systems and cash disposal networks:

- clearing houses;
- brand owners;
- issuer banks;
- acquiring banks; and
- aggregators.

The CNBV's areas of oversight and its powers are found in the following main legal and regulatory framework (jointly referred to as the relevant financial framework):

- the National Banking and Securities Commission Law;
- the Financial Institutions Law (LIC);
- the Securities Market Law;
- the Anti-Money Laundering Law;
- the FinTech Law;
- the Investment Funds Law;
- the General Law of Auxiliary Credit Organisations and Activities;
- the Law for the Transparency and Order of the Financial Services;
- the CNBV's General Rules; and
- The Rules for Payment Instruments and Cash Disposal.

Reporting and disclosure obligations

The main obligations of regulated financial entities are as follows:

- **Prior authorisation:** obtaining authorisations to be incorporated and organised as financial entities and initiate operations. Regulated financial entities must report to the CNBV the date of the start of their operations;
- **Revocation:** regulated financial entities shall comply with the obligations set forth in the relevant financial framework. For example, failure to meet capital adequacy standards, liquidity thresholds and other minimum conditions may see the revocation of a regulated financial entity's authorisation;
- **Ownership control:** among other things, individuals or entities must report to and in some cases obtain the approval of the CNBV to own 5% or more of a regulated financial entity's capital stock;
- **Corporate governance:** regulated financial entities must report their corporate governance measures to, and obtain the approval of, the CNBV. The CNBV must verify that an entity's board of directors meets the eligibility requirements – that is, at least 25% of the members of boards of directors must be independent directors – and entities must report the appointment of a chief executive officer and, in some entities, the appointment of compliance officers and ancillary committees. The CNBV shall then verify that individuals meet the standards of credit eligibility and creditworthiness.
- **Capital stock regulation:** the regulated financial entity shall report the status of its capital stock. That is, the minimum capital within the thresholds provided by law; and the regulatory capital (capital adequacy), substantially as set forth in Basel III, attending to the risks to which it is exposed.
- **Activities and operations:**
 - **risk management:** entities must report measures to mitigate the following risks:
 - credit risk: potential default;
 - market risks: economic and political conditions in the national market; and
 - operative risks: personnel control and operation failures;
 - the CNBV has powers to issue prudential regulations to protect the general public. Regulated financial entities must report their

level of compliance with such regulations:

specific preventive actions to ensure regulated financial entities meet safety standards regarding capital adequacy; and operations can continue but are conditioned, for example, if an entity's capitalisation index is between 4% and 8%, among other parameters; and

money laundering and financing terrorism prevention: regulated financial entities have the obligation to set forth measures and procedures to prevent and detect acts or operations that could be considered operations using illegally obtained resources or for the financing of terrorism as per the wording of the Federal Criminal Code, as well as to identify, assess and report any unusual operations to the CNBV under the terms of the Anti-Money Laundering Law and the LIC.

The main reporting and disclosure obligations of issuers of securities are as follows:

- Corporate matters: they must report to the CNBV and disclose to the general public (through the relevant stock exchange) the following:
 - corporate actions, resolutions adopted by an issuer's corporate bodies and notices that must be given in connection with the foregoing, including notices regarding shareholders' rights (pre-emptive rights, dividends, etc); and
 - corporate restructurings (mergers, spin-offs, acquisitions, sales of assets, etc).
- Operations and financial matters: this involves quarterly and annual reporting of issuers' operations, results and financial positions, including financial statements and an external auditor's opinion thereon.
- Relevant events: each issuer must report on any relevant changes or events regarding itself, its corporate structure, its business, its securities or its financial position that may have an impact on the market price of such issuer's securities.

The CNBV's authorisation is required for registration in the National Securities Registry and the public offering of any security. Tender or exchange offers of securities are also subject to CNBV authorisation.

The main obligations for securities in relation to the CNBV are:

- Obtaining authorisation, licence or concession to be incorporated and organised as such entity and begin operations.
- Reporting corporate governance and ownership to the CNBV.
- Complying with the rules of operation and the management conditions set forth in their authorisation, licence or concession title.

The CNBV has powers to verify the foregoing and request information regarding its compliance.

Monetary sanctions and recent behaviour

The CNBV has powers to impose sanctions on legal entities, shareholders, directors and officers, employees and, in general, any person or entity that holds operations in connection with those activities monitored by the CNBV, and that is directly (or indirectly) involved in, or instructs regarding, conduct that violates the banking or financial laws, as well as the rules and provisions issued by the CNBV itself and those provided in the relevant regulations.

CNBV sanctions are administrative in nature and may be challenged by sanctioned offenders before the administrative or judicial courts.

The amount of fine that the CNBV can impose ranges from 200 to 100,000 days' salary: the amount shall be determined taking into account the severity of the incident, whether it is a repetition of similar incidents by the same offender, and the negative impact of the incident on the general public.

The statute of limitations on the CNBV's powers to impose sanctions is a period of five years from the date of the infraction to the date of the formal notification of the administrative sanctioning procedure.

Under the Anti-Money Laundering Law, the CNBV has powers to impose fines for operations and activities that are potentially illicit as set forth therein, and may issue an opinion on financial crimes to the competent prosecutor's office.

In the past, the CNBV has imposed significant monetary sanctions on banking and investment firms, and on their respective directors and employees, for insider trading and non-compliance with reporting and disclosure obligations, non-compliance with calculation methodologies and processes, and in connection with money laundering offences. Furthermore, the CNBV continues imposing strict and severe sanctions in connection with a lack of compliance on money laundering; for example, in 2021 (i) the CNBV imposed a relevant fine and, ultimately, revoked the license of one bank due to the lack of compliance in processes and for not meeting the minimum capitalisation requirements; and (ii) the CNBV imposed numerous monetary sanctions to banking institutions – fines of over 2 million pesos in each case – for their failure to comply with the methodologies regarding the liquidity standards and the rating of the credit portfolios.

Finally, the approach of the government continues to emphasise establishing a strict and punitive position against the regulated entities, especially regarding the prevention of money laundering and illegal financial activities, it is foreseeable that the CNBV (which coordinates closely with the Financial Intelligence Unit of the Ministry of Finance, FIU) will continue with an aggressive posture in the

imposition of sanctions without further and duly conducted investigations by the FIU, many of which have been overturned by means of administrative and court proceedings. This is of particular relevance considering that in many cases the conducts derived from money laundering and illegal financial activities may be classified as crimes.

Non-monetary sanctioning powers and behaviour

The CNBV also has powers to impose non-monetary sanctions on legal entities, shareholders, directors and officers, employees and, in general, any person or entity that holds operations in connection with those activities monitored by the CNBV, and that is directly (or indirectly) involved in, or instructs regarding, conduct that violates the banking or financial laws, as well as the rules and provisions issued by the CNBV itself.

Non-monetary sanctions may be challenged before the administrative or judicial courts.

The CNBV has the following non-monetary sanctioning powers:

- Warnings, where offences do not have a negative impact on the financial system or the general public. The CNBV considers the background and severity of the misconduct, whether the misconduct affects the financial system or the general public, if the damage caused has been repaired and the existence of mitigating factors, among other issues. Warnings may be considered in future assessments of offences.
- Suspension of operations and closure: if misconduct severely affects the financial system or the general public's interests, or is linked to money laundering or terrorism financing, the CNBV may immediately, temporarily or permanently suspend the operations of the offender. These powers to suspend activities as a sanction are different to the CNBV's powers related to prudential reasons: that is, to prevent a negative impact on the stability of the financial system or prevent manipulations of the stock market.
- Revocation of authorisations: if any of the causes of revocation set forth in the Mexican financial legal framework are met, the CNBV may revoke an offender's authorisation to impede it from continuing its operations.
- Blacklisting: offenders may be blacklisted by the CNBV, which prevents them from being involved in activities related to banking and investment.
- Criminal charges: in some cases, the CNBV will be entitled to file criminal complaints before the corresponding authorities. An offender may be subject to criminal charges for carrying out illegal activities within its operations in the financial system.

In 2021, the CNBV issued warnings, suspended and, ultimately, revoked one bank's the licence due to a continuous lack of compliance (including not creating the relevant reserves and failure to meet the minimum capitalisation standards).

Furthermore, if the CNBV detects that an entity or individual is carrying out operations exclusively reserved for regulated financial entities (ie, banking) without being an authorised title holder, the CNBV may file a criminal complaint before the General Prosecutor's Office so that it can investigate and, if applicable, sanction the involved entity and individuals for being involved in a felony.

Recent and upcoming developments

Covid-19 pandemic impact

As with any other governmental body in Mexico, the pandemic had a relevant impact on the CNBV and its operations. During the lockdowns, the CNBV implemented remote working measures that, in some cases, are still in place. In the beginning, the CNBV struggled to efficiently operate, and the communication between the different areas in the CNBV had relevant delays; however, as the months went by, the CNBV's officials regrouped and improved response time frames and efficiency.

It is important to mention that the covid-19 pandemic has had several positive effects on the operation of the CNBV. This situation has pressed the CNBV to make use of the advantages derived from the technology to enhance its working capability, prioritising the use of electronic means to perform its duties and to interact with the interested parties. The foregoing is relevant as the issuers and supervised entities have been asking for many years for institutional changes such as those that improve and make the regulatory compliance process more efficient. It is foreseeable that many of the measures will remain after the pandemic, and the CNBV is making exceptional efforts to make this the new standard; for instance, many of the filing processes have been completely digitalised and the acceptance of digital signatures in certificates (*titulos*) is a proof of the measures to come, which has been well received by the parties involved. Also, the CNBV is working closely with the regulated entities and associations to make inter-institutional communications and processes more efficient.

Disincentives to working in the public sector

The position of the government regarding public service continues to severely affect the CNBV's ability to work properly, since the relevant laws in connection with public service were modified to include:

- strict salary and wage limits for all below the head of the Executive Power's self-imposed salary of approximately US\$8,000 per month; and

- the elimination of positions and downsizing.

The laws established a restriction towards the public servants consistent with the ineligibility to work in private entities or to advise companies related to the supervised sector (ie, the financial sector) for 10 years as of the date of leaving a position in the public sector. However, recently, the Supreme Court ruled this restriction as unconstitutional, and revoked its application.

The above caused many mid and high-level CNBV officials to resign or to be removed, leaving the CNBV with a diminished workforce, which has adversely affected its response times and its resolution of matters. Moreover, the lockdown and remote work measures caused by the covid-19 pandemic have limited the workstream and availability of the remaining CNBV's officials, which has evidenced the lack of a sufficient workforce.

The CNBV historically was a seedbed of talent and an attractive place to grow professionally in the financial sector before positioning oneself in the private sector, but this is no longer the case.

Regarding its high-level positions, the CNBV has suffered many changes in the past years, especially during this administration. In that regard, there have been three changes at presidential level, and many of the relevant Vice Presidents have been fired or resigned, most of them with numerous years of experience and in mid-process of implementing programmes that are in danger of being discontinued.

Finally, except for the area of sanctioning, the areas supervised by the CNBV are not a priority for the current government; thus, it is foreseeable that the CNBV will suffer regular budget cuts within this administration, which will negatively affect its general function and operations.

Cash disposal networks, fintechs and payment systems

The cash disposal networks are governed under the Law for the Transparency and Order of the Financial Services. This sector is jointly regulated by Bank of Mexico. The purpose of the regulation is, among others, to set forth conditions of effective competition, non-discriminatory treatment and replicability of the terms and conditions contracted by the participants (clearinghouses, brand owners, issuer banks, acquiring banks and aggregators).

Such networks are closely related also to the payment systems which are governed under the regulation issued by the Bank of Mexico, the most important payment system in Mexico is SPEI. The purpose of this regulation is to ensure the proper technical conditions and security of the transactions carried out by the participants (banks and fintechs, among others) to send and receive electronic funds transfer through the payment system.

On the other hand, the introduction of finance technology (fintech) regulation became latent with the enforcement of the FinTech Law in 2018, which is still in an initial application phase, since it is evident that the methods of compliance with said regulations are still in being interpreted by both the CNBV and the parties concerned.

The FinTech Law's objective is to regulate financial services provided by fintech institutions, constraining and supervising transactions made through technological platforms with contact points in Mexico and promoting financial inclusion and innovation via new technologies.

The main areas regulated by the FinTech Law are, among others:

- payment and transfer means (payment, e-commerce and international transfer platforms);
- infrastructure for financial services (including customer and risk profile assessment, fraud prevention, identity verification, banking application programming interfaces and payment method aggregators);
- financial software solutions for companies (accounting, billing and financial management);
- cryptocurrency and blockchain developers, intermediaries and digital asset markets; and
- crowdfunding using web platforms.

As with any new regulation over a sector, the CNBV has faced challenges in enforcing the provisions of the FinTech Law considering that there were already entities incorporated that provided financial services over technological platforms, which now face new regulatory burdens and obligations. The foregoing has meant that the CNBV supervises a new sector, with the current budget limitations derived from the head of the Executive's austerity public policy and salary reductions described in the section above.

Asymmetric regulation initiative

At the 82nd annual convention of the Association of Mexican Banks (the private chamber of the banking industry), the President of the CNBV gave an opening speech in which he emphasised the importance of differentiated banking regulation. In response, the private banking sector presented an initiative to the CNBV to amend the banking regulation. The initiative proposes differentiating the regulatory costs for regulated financial entities by considering their size and the risks to which they are exposed.

Among others, the main regulatory topics they requested be modified are:

- regulatory reports;
- a differentiation instead of the current flat costs of operational risk through a consideration of the nature of the assets at risk;

- liquidity requirements;
- disclosure of information; and
- remuneration committee requirements.

The financial authorities have not reached a consensus about whether the asymmetric regulation should be applied on the basis of the assets at risk, the size of the regulated financial entities or another parameter. Thus, the asymmetric regulation initiative is currently on hold.

Aggressive approach to enforcing regulations

The current government's approach to the supervision and sanctioning of money laundering, financing terrorism and illegal fiscal and taxation activities (which categorises illegal fiscal and taxation activities as organised criminal activities) is aggressive, which implies a joint effort by the CNBV and many other governmental entities to ensure the constant and thorough supervision of regulated financial entities. This approach seems to be one that will prevail during the term of the current administration, since it has been employed to strengthen the position of the government in regard to crime fighting.

In relation to the enforcement of the FinTech Law, the CNBV is taking a stringent position. As explained above, the FinTech regulation only comprises the services of (i) electronic transfer of funds and (ii) crowdfunding as regulated activities. Nonetheless, the FinTech Law prohibits the use of the word "fintech" or other related words that may portray to the public that it is an entity entitled to provide regulated services, even if its scope of services does not comprise those governed under the Mexican regulation and the CNBV has performed intensive verification processes in which it reviews the websites of the entities that provide any financial service through technological means to verify if the entities use any restricted word.

The CNBV has imposed relevant fines – up to 2 million pesos – and, if the CNBV decides there is an intention to confuse the public in the advertising, it may press charges to prosecute it as a criminal offence.

Challenges

- Constant changes in key positions of the CNBV may imply that the CNBV frequently shifts its approach and determinations to relevant matters and the programmes and processes are not followed through for their proper implementation or completion.
- Lack of workforce and operation capabilities: as part of the reorganisation of the CNBV by the current government, amendments to relevant laws in connection with public services were approved, setting salary limits and eliminating some positions, which in turn affects the CNBV's workload. In consequence, the CNBV has a diminished workforce, adversely affecting its response times and its resolution of matters. Furthermore, as per the new regulations, the CNBV may not be able to attract new talent.
- Economic certainty: it is essential that the regulators build an environment of confidence and stability for all participants in the financial system.
- Autonomy and strengthening of regulatory bodies to ensure that independent bodies and those in charge of regulating and supervising the financial system continue to operate with the necessary quality and independence.
- The rate of modernisation in the financial sector is undeniably fast. Authorities and institutions should take advantage of new technologies to be at the forefront and give greater mobilisation to the system, as well as to facilitate and accelerate the realisation of all economic exchanges. The CNBV has begun to implement measures in this sense; however, there is still need for greater efforts.
- In the past 20 years, there have been regular failures of savings and loan institutions due to fraud and abuse by governing bodies. This means that thousands of workers have suffered injustice deriving from insufficient regulation and lack of due supervision by the

CNBV. This presents a great challenge for the authority to ensure that the savings of working people compromised through these vehicles are properly managed.

Interacting with the regulator

Interactions with the CNBV begin with the submission of a formal writ addressed to the director of the relevant CNBV area. It is advisable to identify the specific officials involved in a matter and to communicate with them via email or telephone on an ongoing basis throughout the process to ensure adequate attention and to open a more flexible line of communication.

Regular communications are usually held with mid-rank officials; nevertheless, it is possible to request meetings with higher rank officials, which may enable the process to move forward if a matter seems to be stalled.

Communications and meetings may be held informally, and opinions or studies provided by private entities are not binding before public officials. Nevertheless, this material may help public officials to duly study and resolve a matter.

Response times vary depending on the workload of the area responsible for the matter at hand. Typically, after a first review of a filing, the CNBV issues additional requirements and comments regarding the filing, which must be considered in terms of the timing of the resolution of a matter. The CNBV customarily takes the whole time period provided by law to render its resolution.

Generally, CNBV officials issue requests for information or resolutions through *oficios* (formal written communications). Nevertheless, continuous contact from an interested party may impact the timing and outcome: for example, weekly follow-up meetings with officials may achieve better results.

All communications with the CNBV must be held in Spanish. While most of its high-ranking officials speak fluent English, communicating in Spanish will avoid any misconceptions.

Notes for foreign investors

Generally, there are no restrictions on foreign private participation in banking and financing activities in Mexico involving regulated financial entities, securities issuers and lesser regulated entities.

Nevertheless, the Financial Institutions Law sets forth a prohibition on foreign governments holding, directly or indirectly (with no contact point limitations), any interests in regulated financial entities, except when such interests:

- derive from the execution of prudential or bailout measures regarding regulated financial entities;
- are held via governmental funds, through development or similar entities, and only if such entity does not exercise (governmental) authorities or functions, and their corporate organs are independent of such governments; or
- are held indirectly and exert no control of a regulated financial entity.

In any case, the participation of a foreign government is subject to the prior authorisation of the CNBV.

In relation to the acquisition of securities issued by Mexican securities issuers, it is important to note that their tax regulation has certain benefits if investors are residents of countries with which Mexico has valid tax treaties. Therefore, investors should be cautious of any modification that may affect the taxation regime applicable to them.

Other regulators it works closely with

Domestic

- Banco de México: Bank of Mexico;
- Secretaría de Hacienda y Crédito Público (SHCP): Ministry of Finance and Public Credit;
- Ministerio de Economía: Ministry of Economy (in the area of foreign investment);
- Comisión Nacional de Seguros y Fianzas (CNSF): National Insurance and Bonding Commission;
- Comisión Nacional para la Protección y Defensa de los Usuarios de Servicios Financieros (CONDUSEF): National Commission for the Protection and Defence of Users of Financial Services;
- Instituto para la Protección al Ahorro Bancario (IPAB): Institute for the Protection of Bank Savings;
- Unidad de Inteligencia Financiera (UIF): Financial Intelligence Unit; and
- Fiscalía General: General Prosecutor's Office.

International

- International banking and securities commissions: international interactions regarding banking affiliates established in Mexico and securities issuances in other countries by Mexican entities; and
- America's Association of Bank Supervisors: maintains close communication between its members to facilitate cooperation and promote the improvement of their capacities.

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[Michael L. Fitzgerald](#)
[Paul Hastings LLP](#)

Authors



[Luis Mancera de Arrigunaga](#)
[Gonzalez Calvillo](#)



[Rafael Fuentes Cantano](#)
[Gonzalez Calvillo](#)



[Francisco Javier Alvarez](#)
[Gonzalez Calvillo](#)

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Other regulators in the same country

[Energy Regulatory Commission \(Mexico\)](#)

[National Centre of Energy Control \(Mexico\)](#)

[National Commission for the Protection and Defence of Users of Financial Services \(Mexico\)](#)

[Ministry of Energy \(Mexico\)](#)

[Ministry of Finance and Public Credit \(Mexico\)](#)

[National Commission of the Retirement Savings System \(Mexico\)](#)

[National Insurance and Surety Commission \(Mexico\)](#)

Other regulators in the same regulated area

[Superintendency of Pensions \(Chile\)](#)

[Central Bank of Chile](#)

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[Financial Market Commission \(Chile\)](#)

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