

Mexico Amends Rules for Issuing Electronic Negotiable Instruments

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On March 26, 2024, the Mexican government published a decree which amends, supplements and repeals various provisions of the General Law of Negotiable Instruments and Credit Transactions ("LGTOC") and the General Law of Organizations and Ancillary Credit Transactions in the Official Journal of the Federation (the "Decree"). The Decree is important because it expressly adds to the LGTOC a provision that was already provided for in the Mexican Commerce Code, providing that any document may be issued electronically through the use of the electronic signature, including negotiable instruments such as promissory notes, stock certificates and/or certificates of deposit, among others.

This Decree also modernizes the use of certificates of deposit by general deposit warehouses. In this regard, it should be noted that throughout the legislative process leading up to the Decree, the intent was to benefit the activity of the country's agricultural sector, facilitating the certificates of deposit to be issued electronically and through a cryptographic system determined by general deposit warehouses, in which the advanced electronic signature is expressly required to be used, as opposed to any other digital signature. This should facilitate access to agricultural credit through by making it easier to utilize such instruments.

In our view, this amendment should be interpreted with caution and accompanied by a careful review of the implications that the electronic issuance of the credit instrument would have in each specific case. At present its use for certificates of deposit is regulated in detail. However, it is important to consider that this amendment constitutes a major step forward in this area since the option to issue an electronic credit instrument is now explicitly provided for.

Regardless of the now permitted use of electronic certificates of deposit, an analysis and review of each specific case should be conducted to identify the potential risks and implications inherent to the issuance of electronic negotiable instruments other than certificates of deposit. One should also consider that only the issuance of electronic certificates of deposit has been regulated in detail, and that no specific regulation has been provided for any other negotiable instrument. Therefore, the delivery, request for payment, endorsement, cancellation, payment, etc. of electronic certificates of deposit depends on technological advances and the criteria of legal authorities responsible for regulating such instruments.