



## The impact of COVID-19 on contractual obligations

On March 24 and 23, 2020, two resolutions were published, respectively, in the Official Gazette of the United Mexican States:

- i. the “Resolution which establishes preventive measures, which should be adopted to reduce and control the inherent risks of the disease caused by the SARS-CoV2 (COVID-19) virus,” issued by the Health Secretariat ‘Secretaría de Salud’, and
- ii. the “Resolution by the Health Council, whereby the latter acknowledges the epidemic disease caused by the SARS-CoV2 (COVID-19) virus as a health priority, which deserves priority attention, and sets forth preventive and response

activities to face this epidemic.”

Other publications have been either preceded or followed by these publications, which are not the only ones of the official communications addressing this item; in the international forum, the World Health Organization declared the virus a pandemic on March 11, 2020.

These publications, therefore, belong to a group of actions and measures which have been undertaken by Mexico, the governments throughout the world, and the private initiative to address the emerging situation, with an adverse impact on the economy worldwide, regardless of the effects in this respect of the virus itself. Likewise, in order to prevent the spread

of the virus, various federal and local authorities have published official notices by which all terms and deadlines in connection with all the processes and procedures that are carried out before them are suspended until April 19, 2020; some of the most relevant entities under this situation are the Ministry of Finance and Public Credit, the Ministry of Economy, the Mexican Institute of Industrial Property and the Council of the Federal Judiciary.

The aforementioned disruption begs for all economic agents’ revision of the terms and conditions of their contractual obligations, as the underlying agreements may already enshrine clauses which absolve a non-performing party of its respective liability to have the obligations thereunder reduced

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or modified (for the benefit or detriment of one party, as the case may be), e.g., material adverse change, hardship, force majeure, etc.

On the other end, in Mexico —subject to a more thorough revision of the applicable law governing each contract, as the provisions vary, for example, from State to State,— owing to the fact this pandemic will most likely frustrate the obligations of many debtors, involuntarily, which was unforeseeable and which was widespread, relief or absolution may be awarded to the debtor to either have him lawfully discharged or absolved of her/his contractually obligations or to have the latter legally amended or reduced.

Please bear in mind that, in this respect, no conclusion may be arrived without performing a careful analysis of the applicable provisions and factual context, or which would otherwise require the intervention of the judiciary in some instances (e.g., in Mexico City).

The obvious and advisable possibility of revisiting and renegotiating the original terms and conditions of an agreement is always available, through the execution of the relevant amendments.

Please do not hesitate to contact us in the event you have any inquiry in this respect, for the implications of this crisis will run deep and long.

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