Galicia

Competition & Regulated Industries Update

Mexico Proposes New National Security Screening Regime for Foreign Investment

Mexico City, August 31, 2026

On August 28, 2026, President Sheinbaum submitted a bill (the "Bill") proposing an amendment to the Foreign Investment Act (the "FIA") to introduce a dedicated national-security screening regime. The proposal would update the current general authority of the National Foreign Investment Commission ("CNIE") to block foreign acquisitions on national-security grounds. The stated objective is to identify and mitigate risks arising from foreign investment while providing transparency and predictability to investors.

Membership of the CNIE Board

Currently, members of the Board of CNIE are primarily representatives from ministries that are tasked with economic development and facilitation and retention of investment. The Bill proposes that representatives from the ministries of Defense, the Navy, and Security and Citizen Protection are added as permanent members of the Board of CNIE. In addition, the Bill proposes that in any meetings of the Board of CNIE convened to discuss national security matters, the heads of the Office of the Attorney General, the National Intelligence Center, the Tax Administration Service and the Financial Intelligence Unit be permanently invited in a consultative capacity (they are not members and thus have no vote in the CNIE decisions).

Which transactions would be subject to mandatory review?

Under proposed Article 30 Bis, prior national security clearance from CNIE would be required where foreign investment triggers a three-pronged test: (i) the direct or indirect acquisition of more than 49% of the capital of a Mexican company; (ii) the total assets of that company exceed a monetary threshold to be set by the CNIE through a general resolution; and (iii) the target company operates in a designated sensitive sector. Acquisitions above 49% of companies that operate in designated sensitive sectors but do not exceed the aforementioned asset threshold may nevertheless be voluntarily submitted for review.

Sensitive sectors are defined broadly

Article 30 Bis expressly covers: (i) strategic physical or virtual infrastructure, including energy, transportation, healthcare, communications, mining, data processing or storage, digital systems, aerospace, defense and sensitive facilities, as well as land and real estate indispensable for the use of such infrastructure; (ii) critical and dual-use technologies, including AI, robotics, semiconductors, cybersecurity, aerospace and defense technologies, energy storage, quantum and nuclear technologies, nanotechnology and biotechnology; (iii) the supply of essential inputs, particularly energy, raw materials and food security; and (iv) access to sensitive information, particularly personal data, or the ability to control such information. The Bill proposes to grant authority to CNIE to designate additional analogous sectors or activities by general resolution, leaving the scope capable of further expansion without another statutory amendment.

Joint filing

Under Articles 30 Ter and 30 Quater, the Mexican target company and the foreign investor would be required to *jointly* submit the authorization request to the CNIE. The CNIE would generally have 60 business days to clear the matter. It may suspend that period once by requesting additional information, giving the parties between 5 and 30 business days to respond, and may extend its review once for up to an additional 30 business days when warranted by the complexity of the matter. If the CNIE does not issue a decision within the applicable statutory period, the application is statutorily deemed denied, meaning that there is no positive silence for national-security reviews. Closing a reportable transaction without prior clearance would make the parties liable for an administrative fine.

While intended to establish a suspensory regime, the Bill does not expressly provide that a closing completed in breach of the standstill obligation would be null and void. However, because the FIA is a public-order statute and Article 37 empowers the Ministry of Economy to declare null and void acts carried out in violation of the FIA, it remains unclear whether a non-compliant closing could ultimately be declared null and void[1]. Importantly, the Bill does not propose to grant the CNIE powers to order divestitures or otherwise unwind a transaction, whether on substantive or procedural grounds.

[1] FIA, Articles 1 (the statute is of public order) and 37 (acts declared null by the Ministry of Economy for contravening the FIA have no effect between the parties or against third parties). Under general civil rules, acts contrary to prohibitive or public-interest laws are null unless the law provides otherwise (Federal Civil Code, Article 8).

Substantive review is expressly risk based

Under the Bill, CNIE may: (i) clear a proposed acquisition if it finds no national-security risk or threat; (ii) condition clearance on changes to the proposed transaction or the implementation of mitigation measures designed to address the identified risk; or (iii) prohibit the acquisition on national-security grounds. Conditional decisions may include transaction-specific obligations, periodic reporting and ongoing compliance assessments. Members of the CNIE Board participating in national-security matters would be required to vote for or against and could not abstain. The statement of purpose of the Bill also emphasizes coordination with specialized security authorities and contemplates referral to competent authorities where potentially unlawful conduct is identified.

A key factor in the CNIE review is that "*national security*"[2] and "*threats to national security*"[3] are not discretionary concepts that CNIE will be at liberty to construe broadly. Both concepts have already been regulated by Congress in the National Security Act, and the Bill does not propose to expand those legal categories. Along these lines, it is also questionable that CNIE can be empowered by Congress to expand the catalogue of sensitive sectors that require prior national security clearance.

Key takeaways for foreign investors and international counsel

Foreign investors should incorporate FDI screening into Mexican transaction planning at an early stage. Closing an acquisition requiring prior CNIE approval without clearance would expose the investor to a fine of up to approximately USD$35,000. A Mexican company transferring the relevant interest despite a denial, or without obtaining the required favorable decision, would face a substantially higher fine of up to approximately USD $1.4 million. Failure to comply with mitigation measures carries the same fine range[4]. Once the Bill is voted, it would become

[2] Generally speaking, *national security* is understood as government action aimed directly at maintaining the integrity, stability, and permanence of the Mexican State, including: (i) preserving the national sovereignty and independence and defending the national territory; (ii) maintaining the constitutional order and the institutions of government; (iii) maintaining the union of the entities forming the Mexican Federation; (iv) defending the Mexican Nation against other nations; and (v) preserving democracy.

[3] *Threats to the national security* include: (i) espionage, sabotage, terrorism, rebellion, treason, or genocide against the country; (ii) foreign interference in domestic affairs; (iii) obstruction of actions against organized crime; (iv) undermining the union of the Mexican Federation; (v) obstruction of military or naval operations against organized crime; (vi) actions against aviation security, maritime navigation or diplomatic personnel; (vii) trafficking of nuclear materials or chemical, biological, or conventional weapons of mass destruction; (viii) financing of terrorist actions or organizations; (ix) impeding intelligence or counterintelligence activities; and (x) impairment of infrastructure that is strategic or critical for the provision of public goods or services.

[4] For investors, fines go from 1,000 to 5,000 times the daily Units of Measurement and Update ("UMA") and for the transferring company and mitigation breaches fines can go from 5,000 to 200,000 daily UMAs. Based on the 2026 UMA daily value (MXN $117.31) and considering a rate of MXN $16.9712 per USD (August 28, 2026), the upper bounds of fines are approximately USD $34,562 and USD $1.383 million, respectively.

effective the day after publication, while the CNIE would have up to 180 calendar days thereafter to issue the general resolution establishing the monetary threshold under Article 30 Bis. The Bill is silent on filing fees for the new application, which would likely be addressed later in the Federal Duties Law or in implementing measures.

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