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Mexico's Supreme Court Upholds the Financial Intelligence Unit's Authority to Freeze Bank Accounts and Departs from Prior Jurisprudence

On April 6, 2026, Mexico's Supreme Court of Justice (*Suprema Corte de Justicia de la Nación*, "**SCJN**"):

i) Departed from prior jurisprudence under which Mexico's Financial Intelligence Unit ("FIU") is only permitted to freeze bank accounts in the context of cooperation under an international treaty.

ii) Upheld the legal authority of the Ministry of Finance and Public Credit ("SHCP"), acting through the FIU, to add individuals to the blocked persons list where there are sufficient indicative grounds of their involvement in illicit transactions, as well as the administrative procedure to challenge such a decision.

These rulings were issued in connection with three landmark cases concerning anti-money laundering ("**AML**"), the counter financing of terrorism ("**CFT**") and bank account freezing: (i) *Acción de Inconstitucionalidad* 58/2022; (ii) *Amparo Directo* 14/2025; and (iii) *Amparo Directo en Revisión* 6320/2024.

I. *Acción de Inconstitucionalidad* 58/2022 — The SHCP's authority to add individuals to the blocked persons list and the procedure to challenge such designation

1.1. Background

- A group of members of the Mexican Senate challenged the constitutionality of Article 116 Bis 2 of the Credit Institutions Law (*Ley de Instituciones de Crédito*, "**LIC**"), introduced by the legislative decree published on March 11, 2022, which provides for:
  - The SHCP's authority (acting through the FIU) to place an individual on the blocked persons list based on sufficient indicative grounds of their involvement in money laundering related crimes and related offenses; and
  - An administrative hearing procedure that the affected individual may initiate before the FIU to challenge the designation.

1.2. Key points of the SCJN's ruling

The SCJN upheld the content of Article 116 Bis 2 of the LIC on the following grounds:

- Administrative nature of the blocked persons list procedure
  - Account freezes are administrative cautionary measures, not criminal sanctions.

- Accordingly, the presumption of innocence — as invoked by the challenging senators in the context of criminal procedure — does not directly govern the design of the procedure set forth in Article 116 Bis 2 of the LIC.

- Burden of proof

  - The "s*ufficient indicative grounds*" standard does not reverse the burden of proof so as to require the individual to demonstrate the lawfulness of their funds.

  - Rather, the standard requires objective and verifiable facts that render the risk hypothesis, namely, involvement in illicit activity, reasonably probable.

- Evidentiary standards in cautionary measures

  - Unlike criminal offenses and penalties, cautionary measures such as the blocking of bank accounts may be subject to broader discretionary standards, provided those standards remain tied to: (i) objective legal categories; (ii) legitimate governmental purposes; and (iii) reasonable evidentiary thresholds.

- Scope of associated offenses

  - The statutory reference to offenses associated with either AML or CFT does not in itself render the provision unconstitutional, as a sufficiently defined scope of legal categories (typicity) delimits the corresponding applicable conduct.

- Role of financial institutions in notifications

  - The notice issued by a financial institution to its customers informing them of their inclusion on the blocked persons list does not constitute an official governmental act.

  - The operative act that affects the individual's rights is the FIU's resolution ordering the account freeze.

This case was reported by Justice Loretta Ortiz Ahlf and decided by a majority of six votes to three.

II. *Amparo Directo* 14/2025 and *Amparo Directo en Revisión* 6320/2024 — Scope of the FIU's legal authority to order bank account freezes.

2.1. Background

- In these cases, the SCJN examined — among other issues — whether the lower courts had misapplied the jurisprudence issued by the former Second Chamber of the SCJN under the following heading: "*BANKING ACTS, TRANSACTIONS, OR SERVICES. THEIR FREEZING IS CONSTITUTIONAL WHEN CARRIED OUT TO COMPLY WITH INTERNATIONAL COMMITMENTS (CONFORMING INTERPRETATION OF ARTICLE 115 OF THE CREDIT INSTITUTIONS LAW).*"

- Under such precedent, **bank account freezes** ordered pursuant to Article 115 of the LIC **are valid only when connected to compliance with Mexico's international treaty commitments and are subject to a formal express request by a foreign authority or international organization addressed to the Mexican State.**

2.2. Key points of the SCJN's ruling

In these cases, the SCJN departed from its prior jurisprudence, holding that the FIU's statutory authority to order bank account freezes may be triggered by: (i) a formal request from an international agency or organization; (ii) the FIU's autonomous exercise of its own statutory authority; and/or (iii) coordination with domestic Mexican governmental authorities, on the following grounds:

- The restriction is unworkable and counterproductive
  - » Conditioning FIU account freezes on a formal request from a foreign agency undermines the State's ability to combat money laundering effectively within Mexico's own legal framework.
- The FIU has autonomous, plenary statutory authority to order account freezes
  - » The FIU possesses the necessary statutory authority to order the freezing of bank accounts whenever there is evidence of illicit activity.
  - » The FIU's mandate extends beyond compliance with international treaty commitments to encompass: (a) coordination with domestic law enforcement and regulatory authorities; and (b) independent, autonomous action to combat illicit conducts within Mexico.
  - » An FIU-ordered bank account freeze is properly grounded regardless of whether it is triggered by: (i) a request from an international agency; (ii) the FIU's autonomous exercise of its own legal powers; or (iii) coordination with other Mexican governmental authorities.
- Account freezes as acts of interference — no prior hearing required
  - » Account freezes are classified as acts of interference rather than acts of deprivation and, accordingly, do not require a prior hearing before being imposed.
  - » The affected party retains full access to administrative and judicial remedies to challenge the freezing of its bank account.

The cases were reported by Justice Lenia Batres Guadarrama and decided by a majority of seven to two.

III. Key takeaways and business implications

- The SCJN's rulings consolidate Mexico's AML and CFT regulatory framework and significantly expand the FIU's operational authority at both the domestic and international levels.
- The primary business implications of these rulings are: (i) greater exposure to preventive bank account freezes; and (ii) the heightened importance of robust internal compliance programs to mitigate operational and reputational risks arising from bank account freezes.
- This risk is compounded by the 2025 amendments to Mexico's Amparo Law (*Ley de Amparo*), which eliminated the availability of injunctive relief against governmental actions in connection with AML and related conduct — including the blocking of bank accounts ordered by the FIU.
- In light of the foregoing, companies operating in Mexico are strongly advised to maintain robust compliance and Know-Your-Customer ("**KYC**") programs that include, at a minimum:
  - i) Comprehensive KYC policies covering customers and business partners (Know Your Customer and Know Your Business).

ii) Continuous transaction monitoring for unusual or suspicious activity involving customers and/or business partners.

iii) AML, CFT and anti-corruption controls designed to detect, prevent, and report illicit activities in a timely manner.

Our team is available to assist with any questions regarding the content of this client alert.

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