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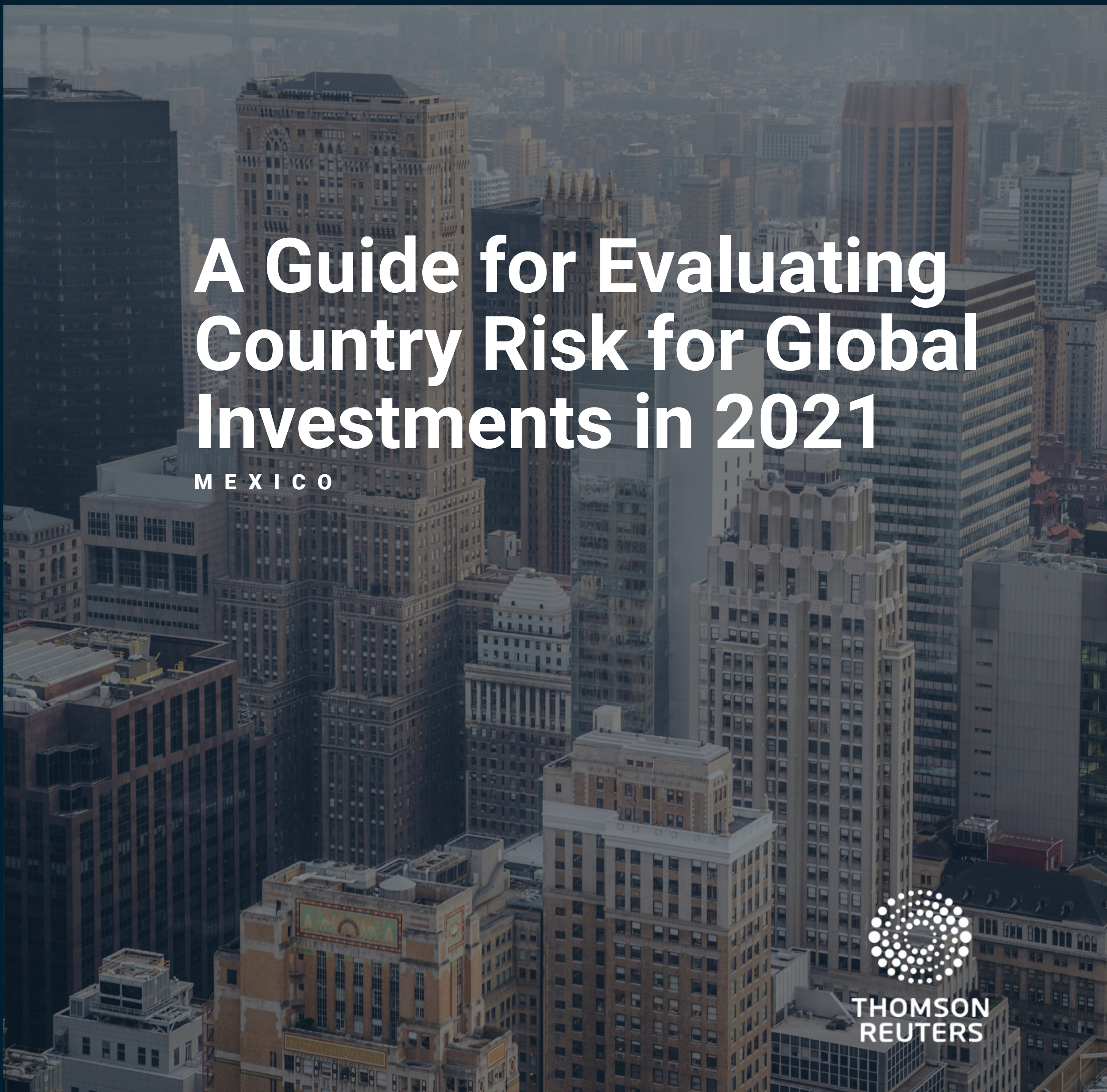

A Guide for Evaluating Country Risk for Global Investments in 2021

MEXICO

A COMPREHENSIVE OVERVIEW OF THE INVESTMENT LANDCAPE

Find out what organizations need to be aware of through our detailed overview of 8 areas of interest.

Foreword

ORLANDO CASARES
CHIEF EXECUTIVE OFFICER

> **“First Law International’s mission is to equip our clients to excel in cross-border legal operations while minimising risk and uncertainty.”**

There is a growing trend among corporate clients that expect their legal service providers to advise them on potential investment opportunities. Every year we are motivated to publish our Investment Guide in partnership with Thomson Reuters in order to meet those needs and answer our clients' questions.

As clients of all shapes and sizes consult the law firms across our FLI spectrum, it is difficult for them to point the clients in the right direction without undertaking the role of financial advisers. It is no longer sufficient for law firms to introduce their clients to a well-known financial investment firm. Indeed, more and more partners in law firms are expected to advise on the location of good investment opportunities and act as the mediator between prospective buyer and seller while looking after the interests of their clients, who are often based offshore. Therefore, there is a need for a valuable network of like-minded, business-oriented law firms to provide the groundwork of the local investment climate.

As the President of a global elite network of law firms in nearly 80 countries, I am confident that this year's **Guide for Evaluating Country Risk** will become a household title for a rapidly growing audience of professionals eager to obtain insightful information, which can only be provided by local law firms with the relevant internal know-how.

This guide provides the reader with facts, figures and opinions that are not readily available in the market place. Unlike other investment publications, this guide seeks to raise questions while providing insight to assist the reader's search for the right investment opportunity, be it for his own company or for a corporate client.

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A GUIDE FOR EVALUATING COUNTRY RISK FOR GLOBAL INVESTMENTS IN 2021

With more than 30 law firms participating in our study, legal specialists from each particular jurisdiction have contributed their time and insights to this guide.

Their contributions make this a very comprehensive, high level overview of the key factors affecting inward investment and what organizations must be aware of.

First Law International would like to thank all of our contributing members for their efforts and expertise.

MEXICO

The Market

Foreign investment in Mexico is expected to grow slowly, but steadily in the medium term. Key sectors for foreign investment include electronics, heavy machinery, the automotive manufacturing industry, and commercial and financial services. Recently, the city of Guadalajara in the state of Jalisco has become a hub for R&D in the budding Mexican IT sector, attracting foreign investment due to its abundance of local talent and the availability of quality land, infrastructure and security. However, the COVID-19 pandemic has caused FDI flows to reverse in the first half of 2020 and has significantly reduced investment projections for the rest of the year.

Legal System

Foreign investment is regulated by the Foreign Investment Law (FIL) and its regulations. The National Commission of Foreign Investment is the federal entity which:

- Is in charge of issuing policy guidelines on foreign investment and the mechanisms for its promotion in Mexico.
- Can determine the terms and conditions under which foreign investment and activities regulated by the FIL will be allowed.
- Acts as an official consultation entity of the Mexican federal government on foreign investment issues.
- Sets general guidelines on the application and interpretation of the FIL.

To the benefit of foreign investors, Mexico has one of the most important networks of free trade agreements (FTAs), bilateral investment treaties (BITs), and double taxation agreements (DTAs) in the world, comprising:

- 12 FTAs with 46 countries.
- 32 BITs with 33 countries.
- 40 DTAs with 42 countries.

Individual Investors

A business visa is necessary for foreign nationals entering Mexico to engage in business activities, allowing persons to enter Mexico temporarily for a short period (no longer than 180 days). A long-term visa is granted to people with sufficient and necessary means to cover their expenses while in Mexico. This is valid for up to ten years, and is possible to renew.

Foreign individuals seeking to reside temporarily in Mexico or enter on a frequent basis, for a period exceeding 180 days, are advised to apply for the temporary resident visa/card for investors. The visa has an initial validity of one year which can be further extended for up to three years.

Individuals are subject to income tax in Mexico if they are either Mexican residents, foreign residents with permanent establishments in Mexico, or are earning income from sources located in Mexico but don’t have a permanent establishment.

10%

Tax

Companies distributing profits abroad must pay withholding tax at a rate of 10% of those profits.

Restrictions

The following activities can only be carried out by the Mexican government:

- Exploration & extraction of oil and other hydrocarbons
- Planning & control of the national electricity system and provision of the electricity transmission and distribution public service.
- Nuclear power generation.
- Radioactive minerals.
- Telegraphs, telegraphy & mail.
- Currency issuance.
- Control, supervision & surveillance of ports, airports and heliports

In addition, the following activities are reserved exclusively for Mexicans and Mexican companies:

- Domestic tourist & freight transport on land, not including courier services.
- Development banking.
- Professional and technical services as expressly provided for in the applicable laws.

There are also limits imposed on foreign investor shareholding in certain sectors, including up to 10% of production co-operative companies, and up to 49% of firearms, printed publications, broadcasting and national air transport services.

Ownership of real estate & waterways within the national territory is vested originally in the Mexican state. The state can transfer the title to any such territory to private persons and convert it into private property.

There are no minimum capital requirements for either domestic or foreign investment.

Imports

In addition to the general import duties, VAT and other contributions which apply to imported goods, there are numerous non-tariff restrictions and regulations that every individual or entity must comply with to import into Mexico. These include:

- Complying with the Mexican Official Standards (Technical Standards), which are regulations containing the information, requirements, specifications, procedures and methodologies that allow different government departments to establish measurable parameters to avoid risks to people, animals and the environment.
- Obtaining import and export permits.
- Registering for a general importers licence and a sectorial import licence (depending on the type of goods imported).

The import duties on commercial goods are regulated by a number of legal provisions and depend on the:

- Tax basis.
- Customs value.
- Transaction value.
- Paid price.
- Transaction value of the merchandise intended to be imported.

Structuring and Tax

Typically, foreign investors minimise risks. Although there are various types of corporation, they are treated the same for tax purposes. Therefore all foreign investors can expect to pay corporate tax at a rate of 30%, and VAT at a current rate of 16%.

Reforms

No significant legal developments have been proposed or recently enacted in Mexico.

Incentives

The most popular tax incentive is the tax credit for investments. Eligible assets primarily consist of depreciable tangible goods other than buildings, livestock and deposits and vessels operating in international traffic. A tax credit of 13% is available for the increase in investments in qualifying assets made during the given tax year. Investment tax credit is also available on the acquisition price of investments made during the relevant tax year. The tax credit amounts to:

- 8% of the first EUR150,000 of the acquisition price; and
- 2% of the price tranche exceeding EUR150,000.

Luxembourg investment funds may also benefit from a wide range of deductions and exemptions, for example, no taxation on income and capital gains, no withholding tax and no net wealth tax.

To incentivise companies that carry out innovative and R&D activities in Luxembourg, financial support, such as innovation loans that carry a fixed interest lower than the market rate, are made available. In addition, Luxembourg income tax law provides for an 80% exemption from income tax on income derived from the commercialisation of certain IP rights, as well as a 100% exemption from net wealth tax of such assets.

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