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# The Mexican Competition Commission enacts emergency regulatory provisions governing service of process through e-mail during the pandemic

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Effective as of April 23, 2020<sup>1</sup>, the Mexican Competition Commission (“COFECE”) issued emergency regulations providing that, during and as long as the coronavirus<sup>2</sup> pandemic is considered a health emergency, the service of process of official communication and resolutions in ongoing procedures—that according to applicable law must be served in person (“In-Person Communications”)—can be performed via e-mail (“Emergency Regulations”).

COFECE may only serve the In-Person Communications to undertakings that are parties to a proceeding, and to e-mail addresses that COFECE knows (with certainty) that belong to the legal representatives of such undertakings (“**Eligible E-Mail Addresses**”).

The Emergency Regulations contains a non-limitative list of situations where e-mail addresses will be deemed to belong (with certainty) to such legal representatives, i.e., will be deemed Eligible E-Mail Addresses: (i) e-mail addresses previously used to communicate with COFECE officials in connection with the leniency program; (ii) e-mail addresses previously used to arrange meetings with COFECE’s officials; or (iii) e-mail addresses previously used to arrange oral hearings or interview with COFECE’s Board or any of its Commissioners.

After COFECE sends an In-Person Communication to an Eligible E-Mail Address, then:

- The recipient thereof has two business days to acknowledge receipt, via an e-mail reply, of the In-Person Communication.
- If the recipient does acknowledge receipt of the In-Person Communication; then, COFECE will publish a notice on its website stating that recipient has received the corresponding In-Person Communication. Any legal terms established thereunder will become effective and start to run after COFECE undertakes the aforementioned electronic disclosure.

<sup>1</sup> Date in which the Emergency Regulations were published in the Mexican Federal Official Gazette. Available at: [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5592142&fecha=23/04/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5592142&fecha=23/04/2020).

<sup>2</sup> COVID-19, disease caused by the virus SARS-CoV2.

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- If the recipient does not acknowledge receipt of the In-Person Communication within the two business days following its delivery attempt by COFECE to an Eligible E-Mail Address; then, COFECE will serve the In-Person Official Communication remotely by disclosing it in its website. Any legal terms established thereunder will become effective start to run after COFECE undertakes the aforementioned electronic disclosure.

Finally, we note that COFECE does not address nor otherwise provide guidance regarding privacy concerns that could arise if the In –Person Communication is distributed to an Eligible E-Mail Address held by an individual that is no longer associated with the legal entity for whom such communication is intended.

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