

Mexico’s authority and process for exercising deference in relation to OTC derivatives regulation

Part A: With respect to the **authorisation and supervision of:** OTC derivatives market participants; TRs; CCPs; and exchanges or electronic trading platforms:

Question	Authorisation and supervision
<p>A.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when ‘partial’ or ‘conditional’ deference decisions can be made.</p>	<p>The current legal framework does not provide a general treatment for Mexican financial authorities to defer to another jurisdiction's regulatory framework and/or authorities with respect to the authorisation and supervision of OTC derivatives market participants, TRs, CCPs and exchanges.</p> <p>Notwithstanding, the recent amendments to the <i>Rules for electronic trading platforms</i> issued on June 6th, 2014, that enter into force on September 4th, 2014, allow the National Banking and Securities Commission (CNBV) to recognise foreign electronic trading platforms for the purpose of executing standardised contracts.</p> <p>The current framework considers a special case of conditional deference when a foreign derivatives exchange celebrates an agreement with a domestic exchange in order to mutually routing electronic orders on derivatives contracts listed on both exchanges. Under that circumstance, domestic market participants can trade in the foreign exchange without the need of the latter to abide to the domestic framework. In accordance with the <i>Rules to be followed by the participants in the derivatives contracts market</i>, such agreements can only be celebrated with exchanges established in jurisdictions that are members of the Board of the International Organization of Securities Commissions or in foreign markets recognised by Bank of Mexico. The current framework establishes minimum requirements for the recognition process.</p> <p>Additionally, Bank of Mexico, in coordination with the Secretariat of Finance and Public Credit and the CNBV, is working on amendments to the Bank of Mexico’s Derivatives Transactions Rules with the purpose of: i) defining and regulating certain type of standardised derivatives contracts in Mexico; ii) requiring them to be traded on exchange/electronic platforms, and cleared on central counterparties; and iii) allowing the Bank of Mexico to recognise foreign CCPs and exchanges for central clearing and trading of standardised derivatives contracts, respectively, and foreign TRs for reporting purposes.</p>
<p>A.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether “similar</p>	<p>The amendments to the <i>Rules for electronic trading platforms</i> establish that a foreign electronic trading platform can be recognised by the CNBV provided that it meets the following requirements:</p>

Question	Authorisation and supervision
<p>outcomes” is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).</p>	<ul style="list-style-type: none"> - The platform is supervised by its foreign authority and is in full compliance with the requirements set by its jurisdiction’s supervisor; - The platform has a regulatory framework that provides for periodic, comprehensive and timely disclosure requirements in terms of its financial and legal condition. Financial authorities should have expeditious, permanent and easy access to this information. <p>This recognition process also requires a prior signed agreement MOU between the CNBV and the pertinent foreign authority (which should have similar functions to the ones carried out by the CNBV), in which the principle of reciprocity is stated.</p> <p>In addition, the CNBV is empowered, through the Banking Law and the Securities Market Law, to impose additional capital charges and to request the setting up of bilateral margining collaterals for derivative transactions that are not cleared nor settled through central counterparties; therefore, the CNBV is planning to draft secondary regulation addressing these topics.</p> <p>With regard to the recognition process of CCPs, TRs and exchanges, standards that need to meet in coming to a decision to exercise recognition may include, among others: i) whether similar outcomes result from the supervision and oversight by the relevant foreign authority, resulting from the implementation of Principles for Financial Market Infrastructures; and an appropriated supervision and monitoring should be followed by the relevant foreign authority; and ii) Bank of Mexico and the foreign authority should enter into a memorandum of understanding (MOU), which considers mechanisms for sharing information between authorities, and such agreement must be based on reciprocity and confidentiality principles.</p>
<p>A.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).</p>	<p>The CNBV plans to carry out a revision process to determine the key criteria for granting regulatory equivalence to foreign electronic platforms and, as mentioned above, the CNBV will also draft secondary regulation to address capital surcharges and margins.</p> <p>The process by which a decision to recognise another jurisdiction with respect to central clearing, trade reporting and executing transactions on exchanges is currently under review by Bank of Mexico.</p>
<p>A.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the</p>	<p>As it was previously mentioned, the CNBV plans to carry out a revision process to determine the key criteria for granting the recognition to a foreign electronic platform and will also draft</p>

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comparability or equivalence assessment.	secondary regulation to address capital surcharges and margins. The documentation that could be required for recognition of foreign central counterparties and exchanges is under review by Bank of Mexico.
A.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.	-

Part B: With respect to **requirements on market participants** related to: reporting to TRs; clearing transactions through CCPs; capital, margin and/or other risk mitigation requirements; and executing transactions on exchanges or electronic platforms:

Question	Requirements on market participants
B.1 What legal capacity, if any, do authorities in your jurisdiction have to defer to another jurisdiction's regulatory framework and/or authorities? Which authorities can exercise this capacity? Please also indicate if/when 'partial' or 'conditional' deference decisions can be made.	The current legal framework does not provide a general treatment for Mexican financial authorities to defer to another jurisdiction's regulatory framework and/or authorities with respect to requirements on market participants related to reporting to TRs, clearing transactions through CCPs, and executing transactions on exchanges or electronic platforms.
B.2 Please provide a brief description of the standards that need to be met in coming to a decision as to whether to exercise any such deference, and the criteria/inputs used in assessing whether these standards have been met (e.g. whether "similar outcomes" is the standard used; whether an analysis of enforcement regimes or authority is included as part of the assessment; whether reference is made to implementation of international standards; etc.).	
B.3 Please provide a brief description of the process by which a decision to defer to another jurisdiction is taken, including any action that needs to be initiated to begin the process (e.g. an application from a jurisdiction or an entity), the general time frame for coming to a decision, any processes in place for reviewing a decision, and whether any other agreements or conditions need to be met in order for an affirmative decision to be taken (e.g. confidentiality agreements, supervisory cooperation, or reciprocal arrangements).	
B.4 Please provide copies of, or weblinks to, any documentation or forms that have been developed for sharing with jurisdictions or entities as part of the comparability or equivalence assessment.	

Question	Requirements on market participants
B.5 Please provide a list of jurisdictions that you have already determined to be comparable or equivalent, if any (and for what regulatory purposes), and please note any jurisdictions for which a determination is pending.	