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**AMENDMENT TO THE FORESTRY LEGISLATION AND ITS IMPLICATIONS IN
THE INDUSTRIAL, REAL ESTATE AND HOSPITALITY SECTORS**

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The amendment to the Sustainable Forest Development Law extends the federal jurisdiction for forestry land use change authorizations that now include urban areas and certain agricultural lands and extends corporate criminal liability associated to environmental crimes.

New forestry concepts

On April 13, 2020, a decree was published in the Federal Official Gazette by means of which it amends and adds various definitions set forth in article 7 of the Sustainable Forest Development Law ("LGDFS"), with the following implications:

1. The new definition of forestry land extends the federal jurisdiction of the Ministry of Environment and Natural Resources ("SEMARNAT") and of the Environmental Enforcement Agency ("PROFEPA"), to authorize and carry out inspections in forestry land use change cases ("FLUC"), which by April 14, will include the forestry lands located in the urban areas.

Industrial, real estate and hospitality developments, among others, who intend to carry out activities that imply vegetation removal in forestry lands within urban areas, must apply for the land use change permit and pay the corresponding compensation to the National Forestry Fund. PROFEPA will impose the corresponding sanctions for non-compliance in these cases.

2. The amendment adjusts the forestry land use change concept, defining it as "total or partial removal of forestry vegetation of wooded forest land or other forest lands for the purpose or induction into non-forest activities".

The new concepts of "wooded forest" and "other forest lands" leads to an extension of the classification of the lands that require a FLUC issued by SEMARNAT, which include the following:

- a) Without any exception, all the lands covered in forestry vegetation.
- b) Those which contain secondary native vegetation, defined as emerging spontaneously as a process of succession or recovery in areas where there has been some natural or anthropogenic impact.
- c) The temporarily forestry lands, which include agricultural surfaces that are temporarily dedicated to harvesting commercial forest crops and those in which reforestation activities have been carried out.

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PROFEPA will be obligated to state a new legal rationale during inspection visits taking into consideration these new concepts and to provide the elements of technical assessment that attest to them.

Criminal implications

The reform to the LGDFS relates to forest crimes provided by the Federal Criminal Code ("CPF"). The new definitions increase the scenarios in which a conduct that implies the removal of forest vegetation would be considered a felony under article 418, sections I and III of the CPF.

These crimes are committed by removing, destroying or changing land use not only on land covered with forest vegetation as was established prior to the reform, but also on wooded forest land, those covered with native secondary vegetation, those that were reforested and agricultural land temporarily destined for forest cultivation, committed without the authorization issued by SEMARNAT.

Considering that these crimes are listed as corporate criminal offences under Article 11 BIS of the CPF, the reform requires corporations to implement compliance measures to ensure control over these criminal risks during their day-to-day operation. Adjustments to compliance programs will be necessary in order to access the penalty reduction or liability exclusion provided by criminal law. Criminal penalties for environmental crimes include fines for up to the equivalent of 10.9 years of the corporation net income.

Any questions or comments, we remain at your service.

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