

## Best's Insurance Law Podcast

### [How COVID-19 Is Affecting Insurance Claims in Mexico - Episode #166](#)

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**Hosted by:** John Czuba, Managing Editor

**Guest Attorney:** Francisco Torres of Santamarina + Steta

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**John Czuba:** Welcome to "Best's Insurance Law Podcast," the broadcast about timely and important legal issues affecting the insurance industry. I'm John Czuba, Managing Editor of *Best's Insurance Professional Resources*.

We're pleased to have with us today Attorney Francisco Torres from the law firm Santamarina + Steta in Mexico.

Francisco is a partner with the firm. He practices in the areas of insurance, mergers, acquisitions and joint ventures, project finance and infrastructure, and economic competition and antitrust. Francisco, thank you so much for joining us today.

**Francisco Torres:** Thank you, John. Thank you, AM Best as well for having me today. I hope all the listeners and the families are healthy and safe under these extraordinary circumstances.

**John:** Thank you, Francisco. Same to you and yours. Today's podcast will address how the Mexican insurance market is addressing the COVID-19 situation. Francisco, for our first question, what is Mexico's current situation towards the COVID-19 crisis in terms of the number of cases in deaths, economic impact, and any other relevant statistics?

**Francisco:** Mexico's facing with the other countries the health emergency caused by the COVID-19. Today, the number of diseased Mexicans is close to 20,000. Around 2,000 persons have died due to such cause. Phase 3 was declared last week by our secretariat of health, which may entail the implementations of measures to restrict the mobility of persons.

On the financial side, Mexico's situation is also challenging. The World Trade Organization anticipates a reduction of nearly 6.6 percent of Mexico's GDP. Perhaps you recall that Mexico received the COVID-19 coming from a reduction of 0.1 percent of its GDP, which now is coupled with the suspension of a large portion of the economic activity due to the health emergency.

A steep fall in the crude oil prices all leading to a depreciation of nearly 30 percent of the Mexican currency with respect to the US dollar.

Among the different measures adopted by our Mexican government to tackle the situation, the Bank of Mexico, which is Mexico's central bank, announced a series of measures to foster the liquidity of the market in around 750 billion Mexican pesos, approximately \$30 billion.

**John:** Francisco, what are the measures currently in effect from the Mexican sanitary authorities to address the crisis?

**Francisco:** Mexican General Health Council declared the existence of a sanitary emergency due to the COVID-19. Based on that, since March 31st, the Mexican Secretariat of Health ordered an immediate suspension of all activities that do not fall within the category of essential, similar to what happens in the US.

For those activities that are deemed essential, certain sanitary measures should be taken into account to continue operating. For instance, people older than 60 years, pregnant women, and other vulnerable persons should remain at home in all cases. It can be anticipated which activities were deemed essential.

First, we have those activities inherently related with addressing the sanitary contingency, hospital, medical activity, pharmaceutical, etc. Others were deemed essential as a result of being part of the critical sectors of the Mexican economy.

Here you will find financial services, distribution and sale of natural gas, fuel, etc., food and food distributions activities, and some others.

The declaration of suspension of activities was initially to remain in effect until yesterday, April 30th. As Mexico's reaching the most critical moments of the COVID-19 spreading, last week, the Mexican Secretariat of Health resolved the extension of the suspension period for non-essential activities until May, the 30th.

**John:** Francisco, what specific rules and regulations guide the performance of Mexican insurance carriers in light of this crisis?

**Francisco:** The first regulation affecting the Mexican insurance field is the administrative ruling of the Mexican Secretariat of Health distinguishing between essential and non-essential activities and ordering the suspension of those non-essential. The insurance industry has long been regarded as part of the financial sector.

Therefore, for being an essential activity, insurance carriers can continue operating subject to the sanitary measures in place. Aligned with this measure that I just mentioned, the insurance regulator in Mexico, which is the Mexican National Insurance and Surety Commission, adopted certain rules ruling the insurance and surety activity.

First of all, the National Insurance and Surety Commission suspended its activities as well as the elapsing of certain legal terms in period related to the current and future application and request for authorization, and the filing of certain regulatory reports.

For other reports, the legal term for their submission remain. Also, for some proceedings that require the filing of the physical form of documents, the Mexican regulator enabled an email to submit documents electronically.

Also, the insurance regulator has allowed insurance carriers the issues of endorsements of general applicability, allowing for an extension in the payment of premiums for up to 60 days, with the clear intention to benefit policyholders and insureds that are facing financial constraints as a result of this crisis.

Also, another commission, the National Commission for the Protection and Defense of the Users of Financial Services, which is an agency that users of financial services, in particular, also insurance and policyholders can direct to claims, seek an amicable solutions with the mediation of this commission. This commission I'm referring to also suspended activities.

For those insurance agents and natural person which authorization has to be renewed during this extension period, the authorization is deemed as valid and in-effect though not renewed, so those agent can continue offering insurance product.

Also in connection with all this situation, the National Insurance and Surety Commission circulated a letter that caused certain controversy in the field, as it recommends not to distribute dividends to their shareholders in order not to diminish the solvency of insurance and surety companies, while at the same time request to inform to such commission once a recommendation was not to be followed by a carrier.

The immediate reaction of the industry represented by the Mexican's Insurance Institutions Association was to highlight the healthy level of solvency and reserves maintained by the carriers among other reasons.

**John:** Francisco, what's been the position adopted by the insurance market in terms of covering losses related to COVID-19?

**Francisco:** Thank you, John. The query, we can address it from private medical insurance perspective. In this regard, Mexican carrier has extensively reaffirmed their commitment to indemnify the claims from insureds and beneficiary related with the COVID-19.

It certainly sends the best message to the policyholders and the market as a whole as this crisis relates to what we value the most, which is our health. Respective to damage product insurance, and particularly speaking to business interruption coverage, Mexico follows the trend of other jurisdictions.

In a sense, business interruption is indemnified when it derives as a result of damage to an installation or a facility, which is, in this particular case, not the case as the losses are experienced for the inability to operate derived not from the actual impediment to operate but instead as an administrative order that is suspending the activities not characterized as essential under the sanitary rulings.

We are aware that despite the aforesaid, my understanding is the common trend worldwide, in other jurisdictions policyholders and insureds are affecting their policy seeking an indemnification for damages due to business interruption.



In Mexico, we will have to wait how the situation develops. Certainly, this will trigger a massive review of policy terms and pricing to address the demand for coverage.

**John:** Francisco, is there any other consideration to be taken into account by carriers and policyholders that derive from this COVID-19 situation?

**Francisco:** In terms of solvency regulation, one of the main concerns I would identify is that insurers will be forced to address the best way to manage their investment portfolio in the light of a fluctuating market. This task will certainly require a common understanding from both the carriers and the regulators alike.

On the product side, one aspect that has raised my attention is that home office has become the widespread practice to maintain the economy running.

Insurers, and policyholders, and insurance company need to assess whether, under the terms, for instance, from the errors and omissions, crime, cyber insurance policies the fact that people are working from home in a massive amount have the effect of aggravating the risk that is subject to insurance policy as this would affect the coverage, especially with respect to industries that relate to the proper handling and use of confidential sensitive information of individuals and corporations.

That would be my remarks in this regard.

**John:** Francisco, stay well and thank you so much for joining us today.

**Francisco:** Thank you, again, John and AM Best for inviting me. All the best.

**John:** That was Attorney Francisco Torres from the law firm Santamarina + Steta in Mexico. Special thanks to today's producer, Frank Vowinkel.

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If you have any suggestions for a future topic regarding an insurance law case or issue, please email us at [lawpodcast@ambest.com](mailto:lawpodcast@ambest.com).

I'm John Czuba, and now this message.

Transcription by CastingWords

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