

Litigation - Mexico

Class actions: the countdown begins

Contributed by [Chadbourne & Parke](#)

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Recently enacted legislation that will enable litigants in Mexico to pursue class actions in federal courts for a variety of claims was published in the *Official Gazette* on August 30 2011, thereby starting the six-month countdown for the legislation to take effect.

The regulation, which passed Congress on April 28 2011, was adopted pursuant to a 2010 amendment to the Constitution (for further details please see "[Green light for wide-ranging class action regulation](#)"). Once it comes into force, it is likely to affect companies in a variety of sectors. For example, it will be possible to bring class action claims to redress:

- harm to consumers and users of public and private goods and services;
- damage to the environment; and
- damages resulting from monopolistic practices and market concentrations.

The legislation includes broadly defined requirements that must be satisfied in order for a claim to proceed as a class action. Among other things, the prospective class members must be in the same common factual or legal circumstances and there must be a clear relationship between the action and the damage to the class. In order to be covered by the statute, the subject matter of the claim must be deemed proper for class-wide disposition.

The legislation allows class claimants to obtain restitution or damages, as well as injunctive relief. Individual class members may recover damages. For the adjudication of compensatory damages claims for class members, the regulation establishes a two-stage procedure, consisting of a class-wide trial followed by individual proceedings. Each class member must prove causation and damages during the individual trial phase before obtaining recovery based on the class judgment.

For further information on this topic please contact [Luis Enrique Graham](#) or [Salvador Fonseca](#) at Chadbourne & Parke by telephone (+52 55 3000 0600), fax (+52 55 3000 0698) or email (lgraham@chadbourne.com or sfonseca@chadbourne.com).

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Authors

[Luis Enrique Graham](#)



[Salvador Fonseca](#)



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