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International Latin America Insolvency Symposium

Trade, USMCA and Restructuring Risk in the Americas

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PANEL SESSION

Trade, USMCA and Restructuring Risk in the Americas

International Latin America Insolvency Symposium · Four Seasons Hotel Mexico City, CDMX





Moderator & Panelists



MODERATOR

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PANELIST

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Samuel Suchowiecky



MODERATOR

Chief Executive Officer & Founding
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Samuel Suchowiecky has been CEO and a founding partner of Hilco Global Mexico in Mexico City since 2017, and he has led Hilco Global's strategy for Mexico and other regions in close collaboration with other Hilco Global leaders and operating companies. Under his leadership, Hilco Global Mexico has a dedicated team of 100+ professionals based in Mexico City that work in a variety of advisory engagements ranging from valuation, monetization, asset-management, diligence services and master and special situations servicing portfolios and structured financing transactions.

Mr. Suchowiecky has been recognized as a driving force in deals and complex situations that involve cross-border investors and a variety of assets. He has acted as principal in deals both independently and in partnership with international investors. Prior to joining Hilco Global, he transitioned from a successful corporate, real estate and finance practice at Kuri Breña, Sánchez Ugarte y Aznar, a renowned law firm based in Mexico City, to a business career that has included numerous real estate ventures and retail and finance businesses, including the creation and subsequent sale of the fourth-largest hotel developer, owner and management company in 2004 and one of the largest nonbank lenders for construction and mortgage loans in Mexico in 2014.

He is often invited to speaking opportunities at industry events in Mexico and abroad and is the current President of the Turnaround Management Association's Mexico City Chapter. He also is active in ABI and the Secured Finance Network (SFNet), among other organizations. Mr. Suchowiecky received his Bachelor's degree in economics and sociology from the University of Texas at Austin in 1989 and his J.D. in 1992 from Boston University.



Carlos Serrano



PANELIST

Chief Economist
BBVA México
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Carlos Serrano is the chief economist at BBVA Mexico in Mexico City, where he leads a team of economists conducting research on economic trends, financial markets and regulation. In 2000, he was awarded the National Prize for Economic Research, presented annually by Banco Nacional de México.

Before joining BBVA, Mr. Serrano served as executive vice president for Regulatory Policy at Mexico's National Banking and Securities Commission (CNBV), where he was responsible for designing regulation for banks, securities and derivatives markets, broker-dealers and mutual funds. He also represented Mexico before the Basel Committee and IOSCO.

Mr. Serrano previously worked at the World Bank, where he held several positions, including Country Economist for Peru, Paraguay and Bolivia. He also taught advanced macroeconomics and finance at ITAM.

He received his Bachelor's degree in economics from the Instituto Tecnológico Autónomo de México (ITAM) and his Ph.D. in economics from the University of California, Berkeley, where he specialized in macroeconomics, international finance and industrial organization.



James H. M. Sprayregen



PANELIST

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James H.M. Sprayregen is a partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York and co-head of Capital Solutions & Restructuring. He has spent more than three decades leading many of the largest and most complex restructurings, representing debtors, creditors, boards of directors and other key stakeholders. He has advised on numerous high-profile cross-border distressed situations, and his work has touched a wide range of industries.

He has been consistently ranked Band 1 by Chambers USA and Chambers Global, among other global directories. In 2013, Mr. Sprayregen was named "Global Insolvency & Restructuring Lawyer of the Year" by Who's Who Legal Awards. He was inducted into the Turnaround Management Association's Turnaround, Restructuring, and Distressed Investing Industry Hall of Fame in 2013, and in 2010 he was selected by The National Law Journal as one of "The Decade's Most Influential Lawyers." In 2018, The M&A Advisor honored him with its Lifetime Achievement Award.

Prior to joining Paul Weiss, Mr. Sprayregen founded the worldwide restructuring practice at another major firm, then left to co-head the Restructuring Group at Goldman Sachs from 2006-08, before returning to private practice for 16 years. From 2024-26, he served as vice chairman of Global Strategy & Growth at Hilco Global. From 2013-15, he served as president of INSOL International, and he was an adjunct full professor of finance at the Wharton School of the University of Pennsylvania.

Mr. Sprayregen is a Fellow of the American College of Bankruptcy, a member of the National Bankruptcy Conference, and a former member of the ABI Bankruptcy Reform Commission. He received his B.A. cum laude from the University of Michigan and his J.D. cum laude from the University of Illinois College of Law.



Leo Zuckermann



PANELIST

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Leo Zuckermann is a Ph.D. candidate in political science from Columbia University and writes a daily column for *Excelsior*, a newspaper published in Mexico City; his column is also syndicated in several newspapers throughout Mexico. In 2003, he won the National Award of Journalism in the category of editorial.

Previously, he worked for the Office of the President of Mexico and was a private consultant associated with McKinsey & Co. Mr. Zuckermann also was the Provost of the Centro de Investigación y Docencia Económicas (CIDE) and a professor in the Political Science Department of this prestigious university in Mexico City.

Mr. Zuckermann hosts a daily talk show on the Mexican TV network FOROtv of Televisa. He also provides in-depth analysis on the radio show "José Cárdenas informa" in Grupo Fórmula. For four consecutive years, the magazine *Líderes de México* has named him one of the 300 leaders of Mexico.

He received his B.A. in public administration from El Colegio de México, his Master's degree in public policy from Oxford University and his Master's degree in political science from Columbia University.



Panel Overview

DESCRIPTION

This panel will examine the USMCA review process and its implications for trade, investment and restructuring risk across the Americas.

The discussion will explore the evolving U.S.–Mexico relationship from economic, political and restructuring perspectives, including trade policy, tariffs, regulatory uncertainty, supply-chain shifts and broader geopolitical considerations.

Panelists will discuss potential outcomes of the review and what they could mean for companies and investors operating across North America.

LEARNING OBJECTIVES

- Understand the key economic, political and business considerations surrounding the USMCA review.
- Assess how changes in trade policy, tariffs and the U.S.–Mexico relationship could affect companies and investment across North America.
- Identify restructuring and business risks arising from regulatory uncertainty, supply-chain shifts and changes in the regional trade environment.
- Understand the dispute resolution options for international investors doing business in Mexico and their implications.



North America Is an Integrated Economic Platform

U.S.-MEXICO TRADE • 2025

\$964.1B

Total U.S.-Mexico goods & services trade

\$871.6B

Bilateral goods trade

\$337.3B

U.S. goods exports to Mexico

\$534.3B

U.S. goods imports from Mexico

DEEPLY INTEGRATED SUPPLY CHAINS

Automotive • Electronics • Medical Devices • Machinery • Agriculture • Energy

USTR notes that Mexico has consistently been one of the United States' top two trading partners, with particularly deep integration in automotive, electronics, medical devices and textiles. In 2024, more than 80% of Mexican goods exports went to the United States.

The significance of the 2026 USMCA review extends well beyond tariffs: it affects deeply integrated production, investment and supply-chain decisions across North America.

Source: Office of the United States Trade Representative (USTR), "Mexico — Trade & Economic Relationship."



The 2026 Joint Review Changes the Horizon — Not the Agreement Today

WHAT HAPPENED

July 1, 2026

The USMCA Free Trade Commission conducted the mandatory six-year Joint Review under Article 34.7.

Mexico + Canada

Supported extending the Agreement for an additional 16-year period.

United States

Did not agree to extend the USMCA in its current form.

WHAT DID NOT HAPPEN

USMCA did not terminate.

The Agreement remains fully in force under its existing 16-year term, currently running through July 1, 2036.

Existing rights continue

Preferential tariffs, rules of origin and dispute-settlement mechanisms remain operative.

WHAT HAPPENS NEXT

Annual Joint Reviews

Without a joint decision to extend, Article 34.7.4 activates annual Joint Reviews.

Extension still possible

The Parties may still agree to a new 16-year extension before expiration.

For companies and investors, the immediate issue is therefore not treaty expiration, but the potential for a recurring cycle of policy and investment uncertainty.

Source: White & Case, "USMCA 2026 Joint Review: United States Declines to Extend Agreement, Triggering Annual Reviews," July 2, 2026.



The Review Is About More Than Tariffs

INDUSTRIAL & TRADE POLICY

- Automotive rules of origin
- Steel and aluminum
- Rules of origin for industrial goods

ECONOMIC SECURITY

- North American supply-chain resilience
- Economic security considerations
- Regional manufacturing competitiveness

BROADER REGULATORY ISSUES

- Agriculture
- Labor
- Environment

The 2026 bilateral discussions between the United States and Mexico have already addressed automotive rules of origin, steel and aluminum, economic security, rules of origin for industrial goods, agriculture, labor and environmental issues.

The direction of the review can influence where companies manufacture, source, invest and deploy capital across North America.

Source: White & Case; USTR, 2026 USMCA Joint Review materials. The panel implication reflects the panel's analytical framing.



Regulatory Compliance Can Become an Operating Risk

IMMEX: A RECENT COMPLIANCE EXAMPLE

2025 — 170 IMMEX Programs Cancelled

Published Sept. 29, 2025 for noncompliance with IMMEX obligations.

2026 — 441 IMMEX Programs Suspended

Suspended in June 2026 for failing to file the 2025 annual report.

KEY FAILURES INCLUDED

- Failure to submit the required annual report for fiscal year 2024
- Failure to update and activate registered tax and operational addresses before the SAT

WHY IT MATTERS

For cross-border manufacturers, regulatory compliance is not merely an administrative matter. Loss of a key operating authorization can become a business-continuity issue and may ultimately create financial pressure.

Panel implication: the specific tax, customs and liquidity consequences depend on each company's circumstances; the cancellation itself should not be presented as automatically producing a uniform financial impact.

Source: Secretaría de Economía / Diario Oficial de la Federación; Holland & Knight, "IMMEX Programs Cancellation," Sept. 30, 2025; Holland & Knight, June 2026 (441 IMMEX holders suspended for failing to file the 2025 annual report).



USMCA State-to-State Dispute Settlement in Practice

MEXICO — MEASURES CONCERNING GENETICALLY ENGINEERED CORN

			
August 17, 2023	December 20, 2024	Outcome	February 2025
United States establishes a dispute-settlement panel under USMCA Chapter 31.	Final Panel Report.	United States prevailed on all seven legal claims.	Mexico declared ineffective the two sets of measures successfully challenged by the United States.

THE MEASURES CONCERNED

Use of genetically engineered corn in dough and tortillas, and instructions to gradually eliminate its use for other food uses and animal feed.

\$5.6B

U.S. corn exports to Mexico in 2024 — Mexico was the largest export market for U.S. corn.

Source: Office of the United States Trade Representative (USTR), "Mexico — Measures Concerning Genetically Engineered Corn."



Investor Protection After NAFTA: A Different Framework

NAFTA CHAPTER 11

Broad investor-state framework

NAFTA provided qualifying investors with a broad investor-state arbitration framework.

Cargill, Inc. v. United Mexican States

The tribunal found breaches of NAFTA and awarded approximately \$77.3 million, plus applicable interest. The dispute arose from Mexican measures affecting Cargill's high-fructose corn syrup business.

LEGACY NAFTA CLAIMS

Transitional protection

USMCA Annex 14-C preserved NAFTA arbitration for qualifying legacy investments during a transitional period; consent for new legacy claims expired three years after NAFTA terminated.

Vulcan Materials v. Mexico

Filed in 2018 under NAFTA over the closure of limestone operations in Quintana Roo. In July 2026 the tribunal upheld one claim, tied to a January 2018 site closure; compensation was under 1% of the \$1.7 billion sought.

USMCA INVESTOR-STATE MECHANISMS

Chapter 14, Annexes 14-D and 14-E

USMCA continues to contain procedures for certain U.S.–Mexico investor-state disputes, but the framework differs from NAFTA.

Covered government contracts

Annex 14-E contains specific provisions for qualifying disputes involving certain covered government contracts.

Identifying the applicable dispute-resolution mechanism can matter as much as the substantive protection itself.

Sources: USMCA Chapter 14, Annexes 14-C, 14-D, 14-E; Cargill v. Mexico (NAFTA Ch. 11); Reuters / MINING.COM, July 28, 2026.



How Trade Risk Migrates Into Restructuring Risk

Policy / Trade Shock	Tariffs · Rules of Origin · Regulatory Change · Trade Remedies · Geopolitical Uncertainty
Operating Impact	Input Costs · Supply-Chain Disruption · Margin Compression · Capex Decisions · Working-Capital Requirements
Financial Impact	Liquidity Pressure · Cash Generation · Covenant Headroom · Refinancing Capacity
Asset & Credit Impact	Collateral Values · Inventory · Receivables · Recovery Expectations
RESTRUCTURING RISK	

Trade risk becomes restructuring risk when policy or regulatory changes materially impair cash generation, liquidity, collateral value or access to capital.

Source: Panel Discussion Framework — 2026 ABI International Latin America Symposium.



Cross-Border Credit Risk: Legal Structure Is Only Part of the Equation

LEGAL PROTECTION	OPERATIONAL PROTECTION
• Security interests • True sale • Bankruptcy remoteness • Contractual enforcement rights	• Cash-flow control and collateral monitoring • Independent servicing and backup servicing • Transition readiness before distress occurs
STRUCTURAL RESILIENCE	

Samuel Suchowiecky's article notes that foreign lenders often depend on legal documentation and contractual mechanisms to protect their interests, but documentation alone may be insufficient when the borrower or originator fails. Practical enforceability also depends on how collateral, cash flow and servicing functions are structured and administered.

The gap between legal structure and operational execution can become a critical vulnerability when distress occurs.

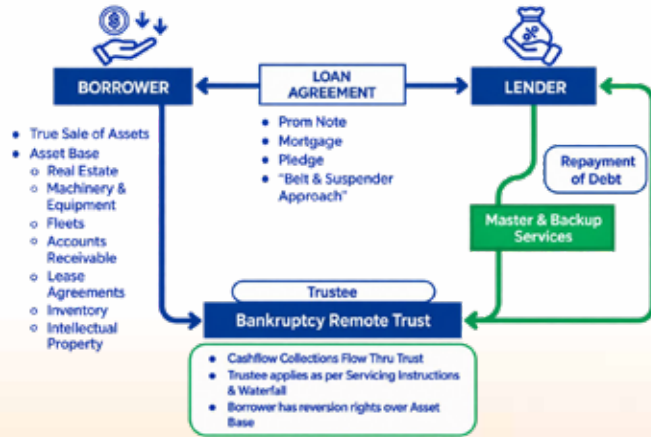
Source: Samuel Suchowiecky, Hilco Global Mexico, "Building Resilient Asset-Based Lending Structures in Mexico: Lessons from ABS Frameworks," Nov. 2025.



Structure for Asset-Based Lending in Mexico

Borrower and lender, an isolated asset base, a bankruptcy-remote trust, an independent trustee, master and backup servicing, and defined cash-collection and waterfall instructions.

The article places this structure within a broader strategy for protecting international lenders, emphasising isolation of assets and cash flows and operational continuity.



Source: Hilco Global Mexico. Diagram originally published in Samuel Suchowiecky, "Building Resilient Asset-Based Lending Structures in Mexico: Lessons from ABS Frameworks," Nov. 2025.



Structural Safeguards for Cross-Border Lending

1. Bankruptcy Remoteness

Use a trust-based structure to create legal separation between borrower operations and relevant collateral.

2. Cash-Flow Isolation

Direct collections into trust-controlled accounts and distribute funds according to predefined waterfall provisions.

3. Servicing Continuity

Establish master and backup servicers with transition procedures before distress occurs.

4. Trustee Oversight

Use a qualified, independent trustee capable of administering the applicable waterfall, reserves and servicing instructions.

5. Early-Warning & Enforcement

Define default and performance triggers that permit accelerated amortization or replacement of servicers when required.

6. Continuous Collateral Oversight

Maintain ongoing reporting, diligence and valuation to preserve visibility into collateral quality and performance.

Resilient structures should be designed not only for closing, but for performance under stress.

Source: Samuel Suchowiecky, Hilco Global Mexico, "Building Resilient Asset-Based Lending Structures in Mexico: Lessons from ABS Frameworks," Nov. 2025.



Discussion Roadmap

- | | | |
|-----------|--|---|
| 01 | Macro & Currency Outlook | Planning assumptions under an annual review cycle |
| 02 | The Mexico Investment Case | Trade flows, perceived risk and sectors with room to grow |
| 03 | IMMEX & Operational Risk | Certification fragility, liquidity shocks and restructuring |
| 04 | Politics of the Annual Review | U.S.–Mexico friction, sovereignty and sector disputes |
| 05 | Legal Protection & Distress | Contract structure, arbitration and contingency planning |



Macro Outlook and the Investment Case

Carlos Serrano · Chief Economist, BBVA México

- The annual USMCA review introduces a new cycle of uncertainty for companies operating in the region. How should companies adjust their macroeconomic and currency exchange rate expectations in their short to long-term financial planning?
- A lot of people in the United States don't realize that Mexico is already their top trading partner, which means Mexico is not only their largest source of imports, but also the biggest customer for US exports. From your perspective, what part of that Mexico story needs to be told to attract more US investment into Mexico, what can Mexico do differently and which sectors in Mexico have the most room to grow in the coming years?
- Some investors point to the lack of rule of law, security, and legal certainty as reasons to cancel or simply not invest in Mexico. From an economic perspective, what mechanisms have been put in place, whether through USMCA or otherwise, that let foreign investors hedge against that risk and see Mexico as a safe bet?



IMMEX, Compliance and Restructuring Fragility

Carlos Serrano · Chief Economist, BBVA México

- IMMEX is a very complex program to operate, and we've already seen mass cancellations, like the 170 companies that lost their program in 2025. Losing the certification also hits a company's liquidity directly, since overnight it has to start paying VAT and tariffs that did not apply with the IMMEX program. Can you briefly explain the IMMEX program and its importance and your views on where it stands and how it can be improved?
- When an exporting company goes through a restructuring process, its IMMEX program is often one of its most valuable assets, and also one of the most fragile, since a single administrative slip can cost the company its status. How much do you think that fragility complicates an orderly restructuring process, and what should a company be doing to protect its IMMEX program if it's already in financial distress?



The Politics of the Annual Review

Leo Zuckermann · Columnist, Excélsior · Political Analyst

- Given recent experience, it's sensible to assume that the American government will continue to use the annual review as a pressure tool on issues that go beyond the USMCA agreement. Which strategy should the Mexican government adopt, knowing the risks involved in negotiating with a counterpart as complicated as the current US administration?
- What should an investor in Mexico be monitoring about the Sheinbaum-Trump relationship to anticipate whether a given year will be conflictive or routine?
- The current administration already has a track record of friction with USMCA beyond rhetoric, for example over genetically modified corn and the energy sector. Politically, how willing is the Sheinbaum government to keep breaching or litigating these kinds of disputes as a sovereignty stance?
- A case like Cargill versus Mexico, which grew out of a Mexican tax on high fructose corn syrup imposed as trade retaliation, is a good example of how quickly a sector level friction inside the treaty itself can escalate. How much could that pattern of sector level noncompliance become the ammunition Washington uses to make the annual review tougher?



Distress Exposure and Contingency Planning

James H. M. Sprayregen · Partner, Paul, Weiss LLP

- From your experience advising companies in financial distress, what type of companies, whether by sector or capital structure, are most vulnerable to a sudden shock from an adverse annual USMCA review?
- What contingency measures should they prepare for now, before that risk materializes?
- The Vulcan Materials case is a good example of how early legal risk can materialize, long before a visible liquidity crisis. What legal and contractual structure should a company with operations in Mexico and the United States have in place today to protect itself if an adverse annual USMCA review leads to serious financial distress?
- How much do you think mechanisms like the international arbitration that resolved the Vulcan case actually help build security and confidence for US companies considering investing in Mexico?



Investor Protection After NAFTA

James H. M. Sprayregen · Partner, Paul, Weiss LLP

- The Vulcan case was resolved under NAFTA's dispute resolution mechanism, which at the time gave foreign investors direct access to international arbitration against the Mexican state, a protection that USMCA significantly cut back for investors outside the energy sector and certain government contracts. Is resolving a dispute under NAFTA's rules still a real possibility, or is that door already closed for new investments? And if it's closed, what legal mechanisms exist now for a foreign investor who wants to protect themselves?
- As a foreign investor operating in Mexico, what real guarantees do you have today to protect your investment in the context of USMCA, and how solid are they compared to what existed before?



Closing Round: All Panelists

In your opinion, will the annual review be the standing rule going forward, or do you think it could eventually change?

- Regardless, what would be your most concrete advice for legal advisors preparing their clients across all three USMCA countries for a potential distress scenario?
- What should they be reviewing today in their clients' debt structure and contractual provisions?
- And what legal mistake can they simply not afford to make?



Key Takeaways

01

The Review Is a Cycle, Not a Deadline

USMCA did not terminate and remains in force through July 1, 2036. Absent a joint decision to extend, the Parties enter annual Joint Reviews under Article 34.7.4 — a recurring source of policy and investment uncertainty.

03

Trade Risk Migrates Into Restructuring Risk

Policy shocks reach the balance sheet through input costs, supply-chain disruption, margin compression and collateral values. Stress-test liquidity, covenant headroom and refinancing capacity against adverse review outcomes.

02

Regulatory Compliance Is a Credit Issue

The 2025 IMMEX cancellations and 2026 suspensions show how an administrative failure can escalate into a business-continuity and liquidity problem. Consequences are company-specific, but the exposure warrants covenant-level monitoring.

04

Protection Depends on When You Invested

Legacy NAFTA claims, USMCA Annexes 14-D and 14-E and contractual arbitration are not interchangeable. Identifying the applicable mechanism early can matter as much as the substantive protection itself.

Panel Discussion Framework — 2026 ABI International Latin America Insolvency Symposium.



Sources & References

USMCA & U.S.–MEXICO TRADE

Office of the United States Trade Representative (USTR), "Mexico — Trade & Economic Relationship," 2025 bilateral goods and services data; U.S.–Mexico supply-chain integration.

2026 USMCA JOINT REVIEW

White & Case LLP, "USMCA 2026 Joint Review: United States Declines to Extend Agreement, Triggering Annual Reviews," July 2, 2026.

IMMEX / MEXICAN REGULATORY COMPLIANCE

Secretaría de Economía / Diario Oficial de la Federación, IMMEX program cancellations, Sept. 29, 2025. Holland & Knight, Sept. 30, 2025. Holland & Knight, June 2026: 441 IMMEX program holders suspended for failing to file the annual report corresponding to 2025.

USMCA STATE-TO-STATE DISPUTE SETTLEMENT

USTR, "Mexico – Measures Concerning Genetically Engineered Corn," Chapter 31 dispute and subsequent compliance materials.

INVESTMENT PROTECTION

USMCA Chapter 14, including Annexes 14-C, 14-D and 14-E. Cargill, Incorporated v. United Mexican States, NAFTA Chapter 11 arbitration materials and award. Reuters / MINING.COM, "Mexico to pay Vulcan Materials less than 1% of arbitration claim," July 28, 2026.

CROSS-BORDER LENDING & STRUCTURAL RESILIENCE

Samuel Suchowiecky, Hilco Global Mexico, "Building Resilient Asset-Based Lending Structures in Mexico: Lessons from ABS Frameworks," Nov. 2025; Hilco Global Mexico, "Structure for Asset Based Lending in Mexico."

ABI CLE Materials · Slides 2–12



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SMARTER PERSPECTIVE: ASSET-BASED LENDING

Building Resilient Asset-Based Lending Structures in Mexico: Lessons from ABS Frameworks

By Samuel Suchowiecky

November 2025 - In recent years, the Mexican financial market has demonstrated remarkable adaptability in the face of economic disruptions, regulatory evolution, and sector-specific distress. A key area where this resilience is visible is in the country's public and private structured finance markets where complex structures have weathered periods of significant stress – most notably during the pandemic and the subsequent distress among major non-bank lenders.

The S&P Global Ratings report, "Mexican ABS Transactions – Stress Test of Administrators," highlighted how servicer performance and structural safeguards were tested across a series of transactions when several high-profile non-bank lenders encountered distress. The report noted that despite the financial strain and management challenges faced by these originators, the core securitization structures largely performed as intended – allowing the transition to backup servicers, protecting cash flows, and maintaining payment to investors. Significantly, S&P highlighted the important role Hilco Terracota played as master and ultimately substitute servicer for Alpha Credit in ensuring full repayment of investors in a public securitization that faced legal challenges as unsecured creditors tested the bankruptcy remote structure in Mexican courts.

While the S&P analysis was published a few years ago and focused specifically on public asset-backed securities (ABS), transactions, it is important to emphasize that many of the same principles can be applied directly to private asset-based lending (ABL) in Mexico and are perhaps even more relevant in today's economic climate than ever before. In both cases, the underlying goal is to build bankruptcy-remote structures that isolate cash-flow generated by the debtor's assets, and can withstand operational or credit deterioration on the part of the borrower or originator. Lenders also need to have visibility on the performance of the debtor, the eligibility and performance of the collateral, and, ultimately, the ability to substitute the servicer for an independent professional servicer when needed, and other step-in rights. For lenders and investors operating from outside Mexico, particularly those based in the U.S., it is clear that lessons learned in the ABS sector can provide helpful insights for structuring durable, enforceable ABL facilities.

From ABS to ABL: A Shared Foundation of Structural Resilience

Securitization activity in Mexico began around 2004, expanding rapidly through 2008 and continuing until the global financial crisis exposed weaknesses in early structures. Many of those initial

transactions lacked sufficient isolation of cash flows, robust master and backup servicing arrangements, and enforceable true-sale mechanics. Following the post-2009 mortgage-backed security (MBS) downturn, Mexico's structured finance market underwent a significant period of recalibration.

By the time of the 2019-2022 stress period, the market had evolved. Modern ABS transactions incorporated higher standards of credit enhancement, better-defined waterfalls, and clearer servicing protocols, as highlighted by S&P. Notably, these transactions often featured:

- Loan-to-value (LTV) parameters aligned with realistic collateral valuations
- Dedicated cash reserves or overcollateralization mechanisms
- Waterfall provisions that prioritized senior noteholders and included accelerated amortization triggers
- Clearly designated master and backup servicers to ensure uninterrupted administration of cash flows

The resulting structures proved resilient. When originators such as Alpha Credit, Crédito Real, and Unifin experienced severe distress, the transition mechanisms to backup servicers – though imperfect – functioned well enough to sustain payments and protect investors from catastrophic loss.

These same bankruptcy-remote principles are equally applicable to asset-based lending. In fact, they can be viewed as best practices for any cross-border lending arrangement in Mexico where repayment relies on the performance or liquidation of identifiable assets, whether those assets are machinery, vehicles, equipment, receivables, or real estate.

Why ABL Structures in Mexico Require Extra Reinforcement

Most foreign lenders entering the Mexican market typically do so without local operational infrastructure. Instead, they depend on legal counsel and contractual mechanisms to protect their security interests. However, as the S&P report indirectly demonstrated, legal documentation alone is insufficient when a borrower or originator fails. Real-world enforceability hinges on how well collateral, cash flow, and servicing functions are structured and administered on the ground.

In fact, the gap between legal structure and operational execution represents one of the greatest points of vulnerability for lenders in Mexico. Without continuous oversight and an ability to transition quickly when borrowers default or servicers fail, lenders risk losing practical control of their collateral. In Mexico, this risk is heightened by several factors including:

- Complex asset registries and varying requirements for taking title or possession
- Differences in insolvency law that can delay or complicate collateral enforcement
- Potential conflicts of interest when the originator also serves as the primary servicer
- Dependence on local custodians, trustees, and notaries to execute and authenticate asset transfers

For these reasons, the most sophisticated ABL structures in Mexico, many of which have been put in place with assistance from Hilco Global Mexico, increasingly resemble securitizations in

their design – complete with trust-based bankruptcy remote structures that isolate assets, cash flows and carefully delineate servicing protocols.

Isolating Cash Flow: The Core Safeguard
A defining feature of resilient Mexican ABS transactions, and one that we strongly advocate replicating in ABL transactions, is the isolation of cash flows. The S&P analysis observed that structures with fully segregated accounts, managed through a trust (fideicomiso) arrangement, fared far better when originators faltered.

In practice, this means that all payments from underlying obligors should flow directly into trust-controlled accounts managed by a vetted trustee, rather than into the borrower's or originator's general operating accounts. Once in the trust, funds are disbursed according to pre-defined waterfalls that govern servicing fees, interest, principal, and reserves.

When such isolation is absent, or when account control is incomplete, the entire structure becomes vulnerable. Funds can be commingled, diverted, or delayed, especially if the borrower enters financial distress. Lenders and investors may then find themselves competing with other creditors, undermining the intended security of their asset-based facility.

The fideicomiso or trust based structure, when properly established and governed, provides a court tested, powerful safeguard against these risks. It serves not only as a legal firewall but also as a practical administrative platform for continuous monitoring and control of cash inflows.

The Role of Servicers, Trustees, and Local Partners

S&P also underscored the crucial role of administrators and backup servicers in maintaining stability when originators failed. In Mexico's ABS market, several major defaults tested this feature. The transitions, though operationally complex, demonstrated that having

a qualified, pre-designated backup servicer was essential to preserving value.

The same logic applies directly to ABL. A master servicer must ensure day-to-day management of payments, collections, and reporting, but a backup servicer – ready to assume control in the event of distress – acts as the true guarantor of continuity. Without such a mechanism, a single point of failure can jeopardize the entire transaction.

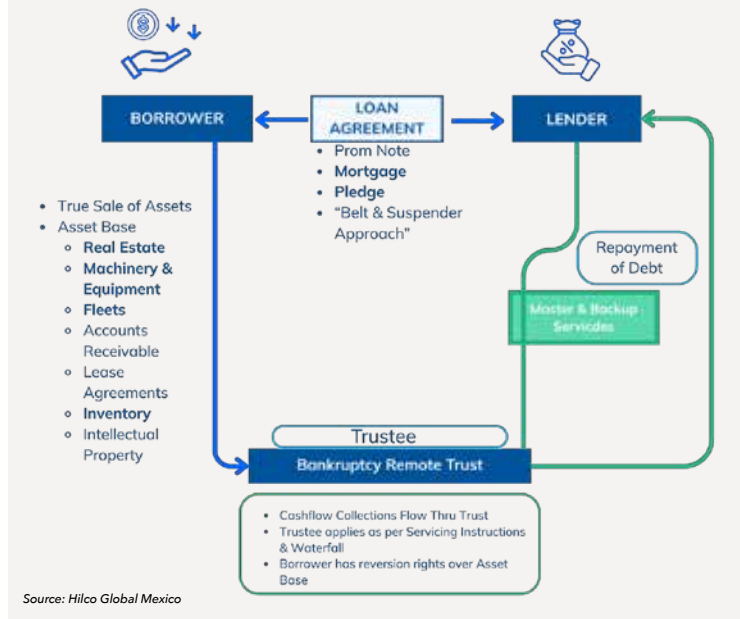
Equally important is the selection of the trustee. The trustee not only holds title to the assets but also enforces the cash flow waterfall and monitors compliance with the structure's covenants. To function effectively, the trustee must be independent, thoroughly vetted by a knowledgeable source with a thorough understanding of, and expertise in, the market and be experienced in handling distressed asset scenarios.

Beyond legal and administrative roles, such local operational expertise can add an additional irreplaceable layer of protection. Lenders benefit significantly from partnering with firms in Mexico, such as Hilco Global Mexico, that possess on-the-ground experience in:

- Asset diligence – verifying ownership, condition, and encumbrances
- Valuation – ensuring LTV ratios reflect market realities
- Monetization – managing repossession, remarketing, or liquidation when needed
- Master and Back-up Servicing – servicing accounts receivable, leases, or payment flows efficiently
- Primary Servicing – the capability and operational capability to not only provide visibility and record keeping for the lenders, but also to provide collection services and, when necessary, monetize assets or reach other settlements with debtors

Such partners bridge the gap between contractual design and real-world execution, providing continuity from origination through resolution.

Structure for Asset Based Lending in Mexico



Structural Features that Reinforce Resilience

The modern generation of Mexican ABS transactions provides a template for resilient ABL design. In our opinion, the following features, many of which are now standard in securitization, should be incorporated wherever possible into asset-based lending structures:

1. True Sale or Traditional Mortgage/Pledge Mechanism: Assets should be transferred to a trust in a true sale transaction, or, in some cases, traditional security interests such as mortgages and non-possessory pledges can be created in a manner that prevents recharacterization risk and protects lenders in the event of borrower insolvency
2. Bankruptcy-Remote Trust Structure: The use of a fideicomiso to hold assets ensures legal separation between borrower operations and collateral pools
3. Cash Reserve Accounts: Establishing reserve funds within the trust provides liquidity for temporary shortfalls and supports payment continuity

4. Waterfall Provisions: Clear prioritization of payments – fees, interest, principal, and reserves – reduces ambiguity during distress scenarios
5. Accelerated Amortization Triggers: Predefined triggers tied to performance or covenant breaches allow for rapid deleveraging
6. Master and Backup Servicers: Pre-identified servicers ensure uninterrupted administration even if the borrower or originator fails
7. Ongoing Valuation and Diligence Oversight: Regular monitoring of collateral quality and market value prevents erosion of security coverage over time

Such mechanisms collectively create what we refer to as the “belt and suspenders” that experienced lenders should consider essential to ensuring successful cross-border ABL in Mexico.

Lender and Investor Best Practices

Before closing any transaction backed by Mexican assets, lenders and investors

– particularly those based outside the country – should take specific steps to ensure long-term structural resilience:

1. Engage a local partner early who has proven expertise across diligence, valuation, monetization, and servicing.
2. Use a bankruptcy-remote trust structure (fideicomiso) to hold assets and receive all related cash flows.
3. Appoint both master and backup servicers with pre-agreed transition procedures embedded in the loan documentation. Details matter in these provisions so that invoices can continue to be issued, tax payments and account statements continue, and other operational challenges flow seamlessly.
4. Vet and approve a qualified trustee capable of enforcing the waterfall, managing reserves, and coordinating with the servicers.
5. Implement strict cash-flow isolation, ensuring payments from obligors flow directly into trust accounts, never to the borrower.
6. Define clear default and trigger events, enabling accelerated amortization or replacement of servicers when needed.
7. Require regular reporting and valuation updates from local partners to maintain accurate, current insight into collateral performance.
8. Rehearse or test transition mechanisms periodically, simulating a servicer failure to verify operational readiness.

The Cost of Neglect

Failing to incorporate these safeguards exposes lenders to cascading risks. Without isolated cash flows, funds may be trapped in borrower accounts during insolvency, leading to delayed or lost recovery. Without a backup servicer, collections can stall for months or years while legal disputes unfold. And without reliable local oversight, collateral values can deteriorate unnoticed, eroding recovery prospects long before lenders become aware.

Past incidents of distress among non-bank lenders such as Alpha Credit and Crédito Real provide a cautionary tale. In some cases, bondholders and lenders

who relied on originator-led servicing or loosely defined trust structures faced prolonged disruptions. Those who employed well-structured, trustee-controlled frameworks with active backup servicers and local oversight, experienced smoother transitions and better recoveries.

These outcomes underscore a simple truth: structure is destiny in asset-based lending. The difference between recovery and loss often depends less on the borrower's original credit quality and more on the practical enforceability of the lender's structure when stress arrives.

Conclusion: From Structure to Sustainability

As global investors and U.S.-based lenders deepen their participation in Mexico's asset-backed markets, the dividing line between securitization and ABL continues to blur. Both depend on enforceable, bankruptcy-remote mechanisms that insulate cash flows and collateral from the borrower's balance sheet.

Mexico's ABS market, once viewed as fragile, has matured into a field of resilient and well-tested structures. These same principles – trust-based isolation, disciplined servicing, and continuous local oversight – represent the foundation for sustainable asset-based lending in Mexico today.

For foreign lenders, the path forward should be clear: treat every ABL transaction as though it were a private securitization. Build redundancy, isolate cash flows, and ensure that capable local experts are embedded from day one. Doing so not only protects capital but also enables the kind of long-term, scalable lending that Mexico's evolving economy both needs and rewards.

*About Hilco Global Mexico
For firms with assets in Latin America,*

Hilco Global Mexico offers vast expertise in valuation, monetization and advisory. Hilco Terracota, an arm of Hilco Global Mexico which specializes in master, back-up and loan servicing, was the acting master servicer and was then appointed as substitute servicer during the Alpha Credit bankruptcy for a large public securitization. At a critical time for the company, its lenders and advisors, the Hilco Terracota team was able to step in with a full understanding of the many nuances of the portfolio assigned to the Trust. This allowed for both the timely identification of inconsistencies and the reconciliation of issues, paving the way for creditors to be paid with minimal delay. This consistent presence also served to reassure creditors throughout the process, reducing uncertainty and instilling confidence in an ultimately positive outcome that resulted in full, accelerated repayments to all lenders to the securitization.

For more than 20 years, Hilco Global Mexico has conducted inventory, machinery and equipment valuations, monetized a wide variety of machinery and equipment from industrial facilities, performed retail asset disposition and acquisition, executed on commercial accounts receivable portfolios, and valued, sold, and redeveloped real estate. Hilco Global Mexico's leadership team is experienced in Latin American markets and can deliver local expertise while tapping into Hilco Global's worldwide resources. Hilco Global, a subsidiary of ORIX Corporation USA, is a diversified financial services company that delivers integrated professional services and capital solutions that help clients maximize value and drive performance across the retail, commercial industrial, real estate, manufacturing, brand and intellectual property sectors, and more. Hilco Global provides a range of customized solutions to healthy, stressed, and distressed companies to resolve complex situations and enhance long-term enterprise value. Hilco Global

works to deliver the best possible result by aligning interests with clients and providing strategic advice and, in many instances, the capital required to complete the deal.



SAMUEL SUCHOWIECKY IS CEO AT HILCO GLOBAL MEXICO

He has vast expertise in delivering valuation, monetization and advisory services for companies conducting business in Mexico and across Latin America. Samuel's deep understanding of the nuances associated with managing the affairs of both distressed and healthy businesses with locations within the borders of Mexico and across South America has been instrumental in delivering optimal outcomes for a multitude of companies, lenders, investors and other creditors. From engagements including master and substitute servicing roles to those focused on the liquidation of large industrial facilities involving thousands of assets and many others, Samuel has gained a reputation in the market for expertly guiding Hilco Global Mexico's management and hands-on field teams to deliver innovative, timely and successful results for a wide range of clients.

Prior to joining Hilco Global, Samuel was Senior Associate of Kuri Breña, Sanchez Ugarte y Aznar, a renowned corporate law firm based in Mexico City as well as founder and CEO or Managing Director of a Non-Bank lender, a Real Estate investor, asset manager and operator, and a Retail Group, among other businesses he helped manage. Contact Samuel at: + 52 55 5980 8213 or sams@hilcoglobal.mx.

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Carlos Serrano (BBVA México)

- The annual USMCA review introduces a new cycle of uncertainty for companies operating in the region. How should companies adjust their macroeconomic and currency exchange rate expectations in their short to long-term term financial planning?
- A lot of people in the United States don't realize that Mexico is already their top trading partner, which means Mexico is not only their largest source of imports, but also the biggest customer for US exports. From your perspective, what part of that Mexico story needs to be told to attract more US investment into Mexico, what can Mexico do differently and which sectors in Mexico have the most room to grow in the coming years?
- Some investors point to the lack of rule of law, security, and legal certainty as reasons to cancel or simply not invest in Mexico. From an economic perspective, what mechanisms have been put in place, whether through USMCA or otherwise, that let foreign investors hedge against that risk and see Mexico as a safe bet?
- IMMEX is a very complex program to operate, and we've already seen mass cancellations, like the 170 companies that lost their program in 2025. Losing the certification also hits a company's liquidity directly, since overnight it has to start paying VAT and tariffs that did not apply with the IMMEX program. Can you briefly explain the IMMEX program and its importance and your views on where it stands and how it can be improved?
- When an exporting company goes through a restructuring process, its IMMEX program is often one of its most valuable assets, and also one of the most fragile, since a single administrative slip can cost the company its status. How much do you think that fragility complicates an orderly restructuring process, and what should a company be doing to protect its IMMEX program if it's already in financial distress?

Leo Zuckermann

- Given recent experience, it's sensible to assume that the American government will continue to use the annual review as a pressure tool on issues that go beyond the USMCA agreement. Which strategy should the Mexican government

adopt, knowing the risks involved in negotiating with a counterpart as complicated as the current US administration?

- What should an investor in Mexico be monitoring about the Sheinbaum-Trump relationship to anticipate whether a given year will be conflictive or routine?
- The current administration already has a track record of friction with USMCA beyond rhetoric, for example over genetically modified corn and the energy sector. Politically, how willing is the Sheinbaum government to keep breaching or litigating these kinds of disputes as a sovereignty stance?
- A case like Cargill versus Mexico, which grew out of a Mexican tax on high fructose corn syrup imposed as trade retaliation, is a good example of how quickly a sector level friction inside the treaty itself can escalate. How much could that pattern of sector level noncompliance become the ammunition Washington uses to make the annual review tougher?

Jamie Sprayregen

- From your experience advising companies in financial distress, what type of companies, whether by sector or capital structure, are most vulnerable to a sudden shock from an adverse annual USMCA review?
- What contingency measures should they prepare for now, before that risk materializes?
- The Vulcan Materials case is a good example of how early legal risk can materialize, long before a visible liquidity crisis. What legal and contractual structure should a company with operations in Mexico and the United States have in place today to protect itself if an adverse annual USMCA review leads to serious financial distress?
- How much do you think mechanisms like the international arbitration that resolved the Vulcan case actually help build security and confidence for US companies considering investing in Mexico?
- The Vulcan case was resolved under NAFTA's dispute resolution mechanism, which at the time gave foreign investors direct access to international arbitration against the Mexican state, a protection that USMCA significantly cut back for investors outside the energy sector and certain government contracts. Is resolving a dispute under NAFTA's rules still a real possibility, or is that door already closed for new investments? And if it's closed, what legal mechanisms exist now for a foreign investor who wants to protect themselves?
- As a foreign investor operating in Mexico, what real guarantees do you have today to protect your investment in the context of USMCA, and how solid are they compared to what existed before?

Final Question (All Panelists)

- In your opinion, will the annual review be the standing rule going forward, or do you think it could eventually change? Regardless, what would be your most concrete advice for legal advisors preparing their clients across all three USMCA countries for a potential distress scenario?
- What should they be reviewing today in their clients' debt structure and contractual provisions?
- And what legal mistake can they simply not afford to make?

Faculty

Carlos Serrano is the chief economist at BBVA Mexico in Mexico City, where he leads a team of economists conducting research on economic trends, financial markets and regulation. Previously, he served as vice president of Regulatory Policy at the National Banking and Securities Commission (CNBV). In 2000, he was awarded the National Prize for Economic Research, presented annually by Banco Nacional de México. Before joining BBVA, Mr. Serrano served as executive vice president for Regulatory Policy at Mexico's National Banking and Securities Commission, where he was responsible for designing regulation for banks, securities and derivatives markets, broker-dealers and mutual funds. He also represented Mexico before the Basel Committee and IOSCO. Mr. Serrano previously worked at the World Bank, where he held several positions, including Country Economist for Peru, Paraguay and Bolivia. He also taught advanced macroeconomics and finance at ITAM. Mr. Serrano received his Bachelor's degree in economics from the Instituto Tecnológico Autónomo de México (ITAM) and his Ph.D. in economics from the University of California, Berkeley, where he specialized in macroeconomics, international finance and industrial organization.

James H.M. Sprayregen is a partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York and co-head of Capital Solutions & Restructuring. He has spent more than three decades leading many of the largest and most complex restructurings, representing debtors, creditors, boards of directors and other key stakeholders. Mr. Sprayregen has advised on numerous high-profile cross-border distressed situations, and his work has touched a wide range of industries. He has been consistently ranked Band 1 by *Chambers USA* and *Chambers Global*, among other global directories. In 2013, Mr. Sprayregen was named "Global Insolvency & Restructuring Lawyer of the Year" by *Who's Who Legal Awards*. He was inducted into the Turnaround Management Association's Turnaround, Restructuring, and Distressed Investing Industry Hall of Fame in 2013, and in 2010 he was selected by *The National Law Journal* as one of "The Decade's Most Influential Lawyers." In 2018, The M&A Advisor honored him with its Lifetime Achievement Award. Prior to joining Paul Weiss, Mr. Sprayregen founded the worldwide restructuring practice at another major firm, building it into a leading international restructuring practice, then left to co-head the Restructuring Group at Goldman Sachs from 2006-08, where he advised clients and deployed capital in restructuring and distressed situations, before returning to private practice for 16 years. From 2024-26, he served as vice chairman of Global Strategy & Growth at Hilco Global. From 2013-15, Mr. Sprayregen served as president of INSOL International. He also was an adjunct full professor of finance at the Wharton School of the University of Pennsylvania, where he taught a joint course on corporate restructuring with Penn Law. Mr. Sprayregen is a Fellow of the American College of Bankruptcy, a member of the National Bankruptcy Conference, and a former member of the ABI Bankruptcy Reform Commission. He is a frequent speaker and writer on issues pertaining to restructuring. Mr. Sprayregen received his B.A. *cum laude* from the University of Michigan and his J.D. *cum laude* from the University of Illinois College of Law.

Samuel Suchowiecky has been CEO and a founding partner of Hilco Global Mexico in Mexico City since 2017, and he has led Hilco Global's strategy for Mexico and other regions in close collaboration with other Hilco Global leaders and operating companies. Under his leadership, Hilco Global Mexico has a dedicated team of 100+ professionals based in Mexico City that work in a va-

riety of advisory engagements ranging from valuation, monetization, asset-management, diligence services and master and special situations servicing portfolios and structured financing transactions. Mr. Suchowiecky has been recognized as a driving force in deals and complex situations that involve cross-border investors and a variety of assets. He has acted as principal in deals both independently and in partnership with international investors. Prior to joining Hilco Global, Mr. Suchowiecky transitioned from a successful corporate, real estate and finance practice at Kuri Breña, Sanchez Ugarte y Aznar, a renowned law firm based in Mexico City, to a business career that has included numerous real estate ventures and retail and finance businesses, including the creation and subsequent sale the fourth-largest hotel developer, owner and management company in 2004 and one of the largest non-bank lenders for construction and mortgage loans in Mexico in 2014. He is often invited to speaking opportunities at industry events in Mexico and abroad and is the current President of the Turnaround Management Association's Mexico City Chapter. He also is active in ABI and the Secured Finance Network (SFNet), among other organizations. Mr. Suchowiecky received his Bachelor's degree in economics and sociology from the University of Texas at Austin in 1989 and his J.D. in 1992 from Boston University.

Leo Zuckermann is a Ph.D. candidate in political science from Columbia University and writes a daily column for *Excelsior*, a newspaper published in Mexico City; his column is also syndicated in several newspapers throughout Mexico. In 2003, he won the National Award of Journalism in the category of editorial. Previously, he worked for the Office of the President of Mexico and was a private consultant associated with McKinsey & Co. Mr. Zuckermann also was the Provost of the Centro de Investigación y Docencia Económicas (CIDE) and a professor in the Political Science Department of this prestigious university in Mexico City. Mr. Zuckermann hosts a daily talk show in the Mexican TV network FOROtv of Televisa. He also provides an in-depth analysis in the radio show "José Cárdenas informa" in Grupo Fórmula. For four consecutive years, the magazine *Líderes de México* has named him one of the 300 leaders of Mexico. Mr. Zuckermann received his B.A. in public administration from El Colegio de México, his Master's degree in public policy from Oxford University and his Master's degree in political science from Columbia University.