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Mexico’s Largest Bank Continues to Face Legal Repercussions from Massive Oceanografía Fraud Case

by Carlos Navarro
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Mexico’s largest lender, Grupo Banamex, is in deep financial and legal trouble with the Mexican and US governments for its handling of fraudulent loans to Oceanografía, a contractor that provided services to the state-run oil company PEMEX (SourceMex, March 19, 2014).

On Oct. 15, the government’s banking regulator (Comisión Nacional Bancaria y de Valores, CNBV) imposed a fine of almost 30 million pesos (US$2.2 million) against Banamex because of lapses in oversight of loans to Oceanografía that resulted in losses of more than US$500 million for the Mexican bank, a subsidiary of the US financial services corporation Citigroup.

Bogus and irregular loans made by Banamex officials also affected the bottom line for Citigroup, which was forced to lower its estimate for 2013 earnings.

In imposing the fine, the CNBV said an investigation begun in February showed the bank had failed in its prudential responsibilities and lacked adequate internal controls.

In a statement, the bank said it agreed to pay the fine and to follow recommendations made by regulators. "Banamex has agreed to accept the observations made by the CNBV and is collaborating closely with the commission to implement any corrective measures in a timely manner," the statement said.

Citigroup dismissed at least a dozen Banamex employees, faulting many for failing to prevent or discover the alleged fraud. On Oct. 3, the US company announced the resignation of Banamex CEO Javier Arrigunaga, who resigned "in light of the difficult challenges our franchise in Mexico has faced over the past year."

Authorities open new fraud investigation

The day after the CNBV announced the fine, Javier Laynez Potisek, the government’s fiscal prosecutor (Procurador Fiscal de la Federación), said authorities were opening an investigation to examine allegations that the security and telecommunications unit of Banamex engaged in fraudulent activities.

Laynez said his office was following a lead from Citigroup, which conducted its own investigation and notified the Mexican government of alleged irregularities at the unit, including the unauthorized use of intercepted communications.

Laynez Potisek said he was not certain exactly what laws were broken, but he noted fraud and the interception of communications are crimes that could result in jail time for the responsible individuals. The information was also turned over to the Procuraduría General de la República (PGR).

The alleged improprieties also included overbilling of gasoline to inflate reimbursements and providing security to outside parties in exchange for kickbacks. The unit, which included
bodyguards, had a fleet of armored cars and operated surveillance equipment and alarm systems, sources close to the investigation told Bloomberg news service. The sources asked not to be identified because the Citigroup investigation had not been disclosed.

CNBV president Jaime González Aguadé said the banking commission is also looking into the case involving the telecommunications and security unit.

Citigroup estimates the fraud at the security and telecommunications unit cost the company about US$15 million, which led the US parent to disband the operation and assign its own global security staff to assume the job of providing those services in Mexico. "While the fraud is not financially material, the conduct of the individuals involved is appalling," Citigroup executive Michael Corbat said in a statement.

**US investigation also ongoing**

The Banamex situation has also brought in US authorities, with the Securities and Exchange Commission (SEC) launching an investigation last March into the allegations of fraud. The US Justice Department is trying to determine whether money-laundering and bank-secrecy laws were violated. In March, a Citigroup affiliate based in Los Angeles received a grand jury subpoena from federal prosecutors in Massachusetts related to anti-money-laundering compliance. The affiliate has also received a subpoena from the Federal Deposit Insurance Corporation (FDIC) related to its anti-money-laundering program and the Bank Secrecy Act.

The New York Times said the two issues—one involving fraud and the other involving money-laundering compliance—are unrelated. "Together they show the perils of building a large banking business in and around a country that has wrestled with drug trafficking and corruption," said the US newspaper. "Mexico accounts for some 13% of Citigroup’s total revenue."

The intervention of authorities from two countries could mean that Banamex and Citigroup could face penalties in each country. "This is another example of US banks with foreign operations finding themselves exposed to a regulatory double-hit," Shane Gleghorn, head of Disputes and Investigations at the international law firm Taylor Wessing, said in a piece published in the online legal site Lexology.

"Given that the US Securities and Exchange Commission and Department of Justice are still conducting their investigations into the fraud relating to Citibank’s Mexico operations earlier this year, these latest revelations of illegal conduct within Banamex will no doubt be added to the mix, which almost certainly will result in sanctions from the US regulators," added Gleghorn. "In light of recent sanctions imposed by the US regulators upon financial institutions, it is likely that the fines (and other sanctions) will be substantial."

**Formal charges filed against Oceanografía’s former owner**

While Banamex and Citigroup attempt to emerge from their financial and legal mess, the man at the center of the fraud—Oceanografía’s former majority owner Amado Yáñez Osuna—is facing an extended prison sentence. On Oct. 22, Attorney General Jesús Murillo announced the formal charges of money laundering and fraud against Yáñez, which means he will not be able to gain his freedom by posting a bond. In addition to the bank fraud, the PGR is also investigating a complaint that Oceanografía defrauded two agencies that support workers: the Instituto Mexicano del Seguro Social (IMSS) and the Instituto del Fondo Nacional de la Vivienda para los Trabajadores (Infonavit).
Murillo declined to identify the federal prison where Yáñez will be held or the court that would eventually have jurisdiction over his case.

Murillo’s announcement quieted speculation that the government was planning to be lenient with Yáñez. There were even rumors that the authorities would allow the business owner to regain control of Oceanografía.

During the interim period while the ownership of Oceanografía remains unresolved, authorities have made every effort to keep the company afloat in order to preserve thousands of jobs in Campeche state. In July of this year, a federal court granted Oceanografía temporary protection against creditors, giving the company some breathing room while it negotiates its debt (SourceMex, July 16, 2014). According to various reports, the family of former Veracruz Gov. Miguel Alemán is poised to gain a majority control of the company. [Peso-dollar conversions in this article are based on the Interbank rate in effect on Oct. 22, 2014, reported at 13.55 pesos per US$1.00.]

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