

# Mexico: A bullet-proof energy reform

Emerging Markets • Economics • Latin America • Mexico

## Research Analysts

Alonso Cervera  
+52 55 5283 3845  
[alonso.cervera@credit-suisse.com](mailto:alonso.cervera@credit-suisse.com)

## Potential legal challenges unlikely to succeed

- In this note, we address investor concerns about potential legal challenges to the energy reform that Congress approved this week. We argue that challenges are unlikely to succeed, as the Constitution prohibits the so-called popular consultation over matters related to the revenues of the State.

We think that the wording of Article 27 of the Constitution that was approved by Congress this week on the energy reform will eliminate the possibility of a successful legal challenge against the reform.

Specifically, the new wording of Article 27 states that: "With the objective of obtaining revenues for the State that foster the long-term development of the Nation, the Nation will undertake exploration and extraction activities in oil and other hydrocarbons through productive enterprises of the State, or through contracts with these companies or with the private sector."

Article 35 of the Constitution defines what topics cannot be subject of a popular consultation (Consulta Popular). The list includes topics related to the "revenues and spending by the State." Therefore, if private sector participation in the energy sector in the new Article 27 is linked to the objective of obtaining revenues for the State, the Supreme Court will likely rule against any motion by the left-of-center parties to challenge the reform via a popular consultation.

The left-of-center parties would need to change Article 35 of the Constitution to eliminate the prohibition that topics related to the State's revenues cannot be subject to a popular consultation. This is unlikely to happen, as the PRI, PAN and PVEM would most likely oppose this change. PRI, PAN and PVEM have 77% of the seats in the Senate and 71% of the seats in the Lower House. Constitutional changes require the approval of at least two-thirds of legislators in both the Lower House and the Senate.

Following the approval of the surprisingly ambitious energy reform in the Lower House and in the Senate, we now expect investors to focus on the approval of the reform in at least 17 of local congresses. We think that this process will take place by the end of January. Once the process is completed, President Peña Nieto would be in a position to make the constitutional changes official in the country's official Gazette.

DISCLOSURE APPENDIX AT THE BACK OF THIS REPORT CONTAINS IMPORTANT DISCLOSURES AND ANALYST CERTIFICATIONS.

## GLOBAL FIXED INCOME AND ECONOMIC RESEARCH

**Dr. Neal Soss**  
Global Head of Economics and Demographics Research  
(212) 325 3335  
neal.soss@credit-suisse.com

**Eric Miller**  
Co-Head, Securities Research & Analytics  
(212) 538 6480  
eric.miller.3@credit-suisse.com

### ECONOMICS AND DEMOGRAPHICS RESEARCH

#### GLOBAL / US ECONOMICS

<b>Dr. Neal Soss</b> (212) 325 3335 neal.soss@credit-suisse.com	<b>Jay Feldman</b> (212) 325 7634 jay.feldman@credit-suisse.com	<b>Dana Saporta</b> (212) 538 3163 dana.saporta@credit-suisse.com	<b>Isaac Lebwahl</b> (212) 538 1906 isaac.lebwahl@credit-suisse.com
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#### LATIN AMERICA (LATAM) ECONOMICS

<b>Alonso Cervera</b> Head of Latam Economics 52 55 5283 3845 alonso.cervera@credit-suisse.com Mexico, Chile	<b>Casey Reckman</b> (212) 325 5570 casey.reckman@credit-suisse.com Argentina, Venezuela	<b>Daniel Chodos</b> (212) 325 7708 daniel.chodos@credit-suisse.com Latam Strategy	<b>Juan Lorenzo Maldonado</b> (212) 325 4245 juanlorenzo.maldonado@credit-suisse.com Colombia, Peru	<b>Di Fu</b> (212) 538 4125 di.fu@credit-suisse.com
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#### BRAZIL ECONOMICS

<b>Nilson Teixeira</b> Head of Brazil Economics 55 11 3701 6288 nilson.teixeira@credit-suisse.com	<b>Daniel Lavarda</b> 55 11 3701 6352 daniel.lavarda@credit-suisse.co	<b>Iana Ferrao</b> 55 11 3701 6345 iana.ferrao@credit-suisse.com	<b>Leonardo Fonseca</b> 55 11 3701 6348 leonardo.fonseca@credit-suisse.com	<b>Paulo Coutinho</b> 55 11 3701-6353 paulo.coutinho@credit-suisse.com
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#### EURO AREA / UK ECONOMICS

<b>Neville Hill</b> Head of European Economics 44 20 7888 1334 neville.hill@credit-suisse.com	<b>Christel Aranda-Hassel</b> 44 20 7888 1383 christel.aranda-hassel@credit-suisse.com	<b>Giovanni Zanni</b> 44 20 7888 6827 giovanni.zanni@credit-suisse.com	<b>Violante di Canossa</b> 44 20 7883 4192 violante.dicanossa@credit-suisse.com
<b>Axel Lang</b> 44 20 7883 3738 axel.lang@credit-suisse.com	<b>Steven Bryce</b> 44 20 7883 7360 steven.bryce@credit-suisse.com	<b>Mirco Bulega</b> 44 20 7883 9315 mirco.bulega@credit-suisse.com	

#### EASTERN EUROPE, MIDDLE EAST AND AFRICA (EEMEA) ECONOMICS

<b>Berna Bayazitoglu</b> Head of EEMEA Economics 44 20 7883 3431 berna.bayazitoglu@credit-suisse.com Turkey	<b>Sergei Voloboev</b> 44 20 7888 3694 sergei.voloboev@credit-suisse.com Russia, Ukraine, Kazakhstan	<b>Carlos Teixeira</b> 27 11 012 8054 carlos.teixeira@credit-suisse.com South Africa	<b>Gergely Hudecz</b> 33 1 7039 0103 gergely.hudecz@credit-suisse.com Czech Republic, Hungary, Poland
<b>Alexey Pogorelov</b> 7 495 967 8772 alexey.pogorelov@credit-suisse.com Russia, Ukraine, Kazakhstan	<b>Natig Mustafayev</b> 44 20 7888 1065 natig.mustafayev@credit-suisse.com EM and EEMEA cross-country analysis	<b>Nimrod Mevorach</b> 44 20 7888 1257 nimrod.mevorach@credit-suisse.com EEMEA Strategy, Israel	

#### JAPAN ECONOMICS

**Hiromichi Shirakawa**  
Head of Japan Economics  
81 3 4550 7117  
hiromichi.shirakawa@credit-suisse.com

**Takashi Shiono**  
81 3 4550 7189  
takashi.shiono@credit-suisse.com

#### NON-JAPAN (NJA) ECONOMICS

<b>Dong Tao</b> Head of NJA Economics 852 2101 7469 dong.tao@credit-suisse.com China	<b>Robert Prior-Wandesforde</b> 65 6212 3707 robert.priorwandesforde@credit-suisse.com Regional, India, Indonesia, Australia	<b>Christiaan Tuntano</b> 852 2101 7409 christiaan.tuntano@credit-suisse.com Hong Kong, Korea, Taiwan
<b>Santitam Sathirathai</b> 65 6212 5675 santitam.sathirathai@credit-suisse.com Regional, Malaysia, Thailand	<b>Michael Wan</b> 65 6212 3418 michael.wan@credit-suisse.com Singapore, Philippines	<b>Weishen Deng</b> 852 2101 7162 weishen.deng@credit-suisse.com China

#### GLOBAL DEMOGRAPHICS & PENSIONS RESEARCH

<b>Dr. Amlan Roy</b> Head of Global Demographics 44 20 7888 1501 amlan.roy@credit-suisse.com	<b>Sonali Punhani</b> 44 20 7883 4297 sonali.punhani@credit-suisse.com	<b>Angela Hsieh</b> 44 20 7883 9639 angela.hsieh@credit-suisse.com
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## Disclosure Appendix

### Analyst Certification

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