

No.01

# COELUM

A MONTHLY DIGITAL PUBLICATION BY ABOGADOS SIERRA

*Brace for Impact: Regulatory  
indifference to airlines financial  
capacity in Mexico.*  
by Nebaí García

JUNE 15, 2026 Year 20



**PRONUNCIATION:**

'che-l&m, is Latin for airspace or sky. The Romans began questioning the rights they had in the space above the land they owned and how high above them those rights would extend. They decided on Ad coelum et ad inferos, meaning that their property rights would extend as high up as the heavens and all the way down to hell.

## Brace for Impact: Regulatory indifference to airlines financial capacity in Mexico.

*Nebal García*

Mexico's aviation framework acknowledges, at least in principle, that an air carrier's financial capacity is not merely an economic credential to start operations, but it is a structural safeguard for passengers, workers, creditors, and the State itself; it is a precondition to sustain safe operations and performance. Yet recent air carriers' failures reveal a different reality: the financial capacity of an airline is still treated by Mexican authorities only as pre-requisite to obtain a concession or a permit to provide public air transport services, rather than a continuously supervised condition with real-time triggers for administrative action from the Civil Aviation Federal Agency ("AFAC").

In the last three decades, 11 Mexican airlines (Mexicana, Aviaca, Interjet, Aeromar, Avolar, Aerocalifornia, Taesa, Magnicharters among others) have disappeared, leaving more than 20,000 families without a livelihood and generating estimated losses of 17 billion dollars for the State, investors and employees<sup>1</sup>. The losses can be consolidated in three big groups (i) Federal duties/taxes (Immigration and Air Space Use fees); (ii) Airport costs; (iii) undue payments before several vendors/employees/creditors.

In every case, the signs were evident and known by the public and the industry itself: (i) growing tax debts, (ii) wage defaults, (iii) defaults with lessors, creditors and suppliers, (iv) sudden cancellations, (v) progressive reduction of fleet and routes, and (vi) loss of consumers trust resulting from all of the above.

But could some of these issues have been prevented? Could AFAC have known something was profoundly wrong with these airlines and

their financial capacity? The answer, while ambiguous and complicated, can be summarized in a big 'YES'. Pursuant to the Civil Aviation Law ("LAC")<sup>2</sup> and its Regulations ("RLAC")<sup>3</sup>, AFAC has the power to review, analyze and verify the compliance of an air carrier with the financial capacity to provide a public air transport service in conditions of quality, safety, opportunity, stability and competitive prices.

The need to comply with the financial capacity at the time of requesting a concession or a permit before AFAC is often treated as a market-entry requirement to certify that the applicant can start and continue their operations without immediate insolvency risk. However, in practice, financial crisis can be also translated into a safety-relevant condition.

While some may consider that this is far-fetched, more often than not, when liquidity collapses, air carriers face pressures that can degrade risk controls, including:

- **Personnel under financial and physical stress** (fatigue, distraction, morale collapse, increased error probability, lack of basic supplies to perform their duties, etc.).
- **Operational short-term solutions for long-term requirements** (cuts to training programs, deferred internal audits, reducing key-position staff).
- **Maintenance and continuing airworthiness vulnerabilities** (deferred maintenance events, parts pooling stress, reliance on minimum-legal compliance rather than robust reliability, degraded operational control).
- **Compliance fragility** (late payments to essential service providers, increase of debt to creditors, tax authorities).

1.- <https://www.jornada.com.mx/2026/05/25/economia/019n3eco>

2.- <https://www.gob.mx/cms/uploads/attachment/file/834913/ley-aviacion-civil-ur-vigente.pdf>

3.- [https://www.diputados.gob.mx/LeyesBiblio/regley/Reg\\_LAC.pdf](https://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LAC.pdf)

While insolvency does not automatically equal unsafe operations, the real danger is that, when nothing visibly goes wrong, the relevant airline may assume that the system is working perfectly.

***“When financial supervision fails, the risk is not only economic: it is operational.”***

In many cases, however, the system is not working; it is merely surviving. Sustained financial distress predictably increases the probability and severity of adverse outcomes unless the regulator and the operator implement compensating controls.

A legally effective model of financial capacity supervision should be implemented in four stages that are currently established in the Civil Aviation Law:

- Authorization (concessions/permits/allocations).
- Ongoing oversight and verification (Yearly technical-administrative verifications and the submission of financial statements every three months).
- Safety Management System (“SMS”)<sup>4</sup> obligations and surveillance.
- Reporting, enforcement, and sanctions.

In Mexico’s current legal framework, these elements exist. The practical question is whether they are integrated such that the AFAC can intervene before an airline collapses due to major financial crisis.

On September 09, 2025, AFAC issued the Mandatory Circular CO DT-01/24 R1<sup>5</sup> (“MC”) to establish criteria and guidelines for carriers to provide AFAC, on a monthly, quarterly, and annual basis, the statistical and financial data needed to give transparency to its performance. The MC explicitly ties reporting to the concept of continuous supervision. It states that AFAC is responsible for monitoring, at all times, the financial capacity of carriers while integrating and studying financial and operational information.

However, the MC aims to punish methods, rather than prevent mechanisms; under the MC, AFAC must review the submissions made by the carriers and there are two possible outcomes from said revision:

- If inconsistencies or “reasonable doubts” arise regarding the veracity of the information submitted, AFAC can require clarification or correction within 15 business days.
- If not corrected or if AFAC notices “shady” accounting movements or information that does not comply with the applicable law, AFAC will proceed under the MC’s enforcement pathway, by initiating a sanctioning administrative procedure against the air carrier, prior a technical opinion that supports said procedure, apart from the provisions established in the terms and conditions of the concession if applicable.

This provision is the bridge between reporting data and AFAC acting accordingly, nevertheless, punitive action is not what is needed to safeguard aviation safety if the financial capacity of the airline is compromised.

AFAC should internally consolidate these submissions into a standardized, risk-facing performance dashboard to track, to the best of their abilities, whenever there is a real possibility of an airline collapse by establishing critical thresholds that enhance their intervention such as liquidity stress markers, maintenance deferrals, increasing labor debt, late payments before creditors, etc.

The purpose is not to manage the business but to determine whether the carrier’s operating condition is drifting into a risk zone and if it is, to establish a clear and more efficient way to protect the rights of every stakeholder involved in the crisis. A carrier’s bankruptcy is not a private event; it affects multiple legal and public interest sectors:

- The State: credibility of oversight, disruption

4.- <https://www.gob.mx/afac/acciones-y-programas/sms>

5.- <https://www.gob.mx/cms/uploads/attachment/file/1021099/co-dt-01-24-r1-09092025.pdf>

of public service continuity, emergency repatriation burdens, unpaid taxes and duties for Air Space Use and Immigration Services.

- Passengers: refund disputes, denied boarding, stranded travel, interline and baggage claims.
- Workers: wage and severance disputes, abrupt layoffs, licensing and training discontinuity.
- Creditors and lessors: aircraft repossession, priority disputes, operational disruption, diminished collateral.

If AFAC's intervention is consistently late, legal risk migrates from a manageable regulatory problem into a multi-forum cascade, where each stakeholder seeks relief in separate channels and the State is forced into reactive decision-making.

Mexico already has many of the conceptual pieces to solve this problem: State Safety Programme ("SSP")<sup>6</sup> and SMS structures, reporting and oversight powers, and the ability to impose measures. The missing element is a disciplined supervisory model that uses standardized financial dashboards, staged interventions, and auditable triggers for AFAC to initiate the intervention, firstly by approaching the operator and request them to provide a strategy based on real-time information on whether it is a temporary crisis and the steps to get out of it without compromising aviation safety, or if it necessary to start the relevant procedures to stop operations in a way that all or most of the stakeholders are protected (e.g. a labor fund to protect workers, separate funds to compensate affected passengers and initiate the process of re-delivering aircraft to lessors/creditors, prior to any other event of default).

And while in paper AFAC is equipped with mechanisms that could ensure supervision and management of the most relevant aspects involved in aviation and operational safety, in reality, we can see that the Agency has been

struggling with its own battles: budget cuts, lack of prepared staff, lack of updated systems and the most basic materials that could facilitate their supervision labor, plus the endless bureaucracy that complicates the direct intervention in cases where it really matters. So, back to the question above: did AFAC know what was going on with the airlines' crisis? the answer is "yes". However, could AFAC, as the aeronautical authority, intervene before the airlines themselves decided to stop operations and leave behind an administrative, labor and judicial disaster affecting passengers, employees, creditors, lessors and other vendors? Probably not.

The complications of the authority in Mexico, the lack of a specific legal framework that defines the steps for a government intervention and the political swings that take place every time the administration changes make it almost impossible for the Aviation Authority to be able to actually foresee and prevent such disastrous stop of operations, hundreds of millions of dollars in unrecoverable debt, job loss and stranded passengers, so, at the end of the day, who will take responsibility for a crisis that was long known within the industry and that has been repeated over and over again? Meanwhile, the owners of the airlines that took all corporate and financial decisions that led to the crisis are nowhere to be found without facing any real consequences for their actions, leaving a whole lot of judicial actions behind them for everybody else to solve.

Oversight must anticipate collapse, not document it afterwards.

***"Carriers bankruptcies expose a structural weakness when financial capacity is treated as a simple administrative requirement rather than a continuing condition integrated into safety oversight."***

6. -<https://www.gob.mx/afac/acciones-y-programas/seguridad-operacional-ssp>

# COELUM

## NEBAÍ GARCÍA ASSOCIATE

Nebaí has over 17 years of experience both in the public and private aviation and airport sector, working as a government officer at the now Civil Aviation Federal Agency and Aeropuertos y Servicios Auxiliares; in the private sector, she has been negotiating contracts with airport groups, assisting in various litigations related to aviation accident investigations. Likewise, she has been responsible for carrying out the necessary procedures for the start of operations of several foreign airlines in Mexico, from the incorporation of a permanent establishment in Mexico to the monitoring of their regulatory obligations; addressing requirements from immigration, tax, and jurisdictional authorities, as well as studying the various proposed reforms regarding passenger rights.

### Education

- Attorney at law by Universidad Nacional Autónoma de México in Mexico City.
- Diploma Course in Aeronautical Law by the Instituto Tecnológico Autónomo de México (ITAM).
- Certification in Corporate Translation at the Instituto Superior de Estudios en Traducción e Interpretación (ISETI).

### Languages

- English
- Spanish
- French



Pro1. Reforma No. 1190 25th Floor,  
Santa Fe México D.F. 05349  
T. (52.55) 52.92.78.14  
[www.asyv.com](http://www.asyv.com) / [www.asyv.aero](http://www.asyv.aero)

Find us in



Tap me



Scan me

The articles appearing on this and on all other issues of Terrum reflect the views and knowledge only of the individuals that have written the same and do not constitute or should be construed to contain legal advice given by such writers, by this firm or by any of its members or employees. The articles and contents of this newsletter are not intended to be relied upon as legal opinions. The editors of this newsletter and the partners and members of Abogados Sierra SC shall not be liable for any comments made, errors incurred, insufficiencies or inaccuracies related to any of the contents of this free newsletter, which should be regarded only as an informational courtesy to all recipients of the same.