Mexico Updates Fintech Regulations

September 13, 2018

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On September 10, 2018, the Mexican National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores* or "**CNBV**") issued the general provisions applicable to Financial Technology Institutions ("***FTIs***") (*Disposiciones de Carácter General Aplicables a las Instituciones de Tecnología Financiera*) (the "***CNBV Provisions***"), which, as of March 10, 2018, are regulated by the Law that Regulates Financial Technology Institutions (*Ley para Regular las Instituciones de Tecnología Financiera*), commonly referred to as the "***Fintech Law***."

Fintech Law regulates two types of FTIs:

- Crowdfunding institutions (*instituciones de financiamiento colectivo*), which are entities that bring together individuals or entities with the purpose of financing each other through an IT platform that may be structured as collective debt financing, collective equity financing or collective financing of royalties or co-ownerships

- Electronic payment institutions (*instituciones de fondos de pago electrónico*), commonly known as e-money institutions, which are entities that issue, manage, redeem and transfer electronic payments through an IT platform

FTIs can be operated by Mexican corporations (*sociedades anónimas*) previously authorized by the Mexican National Banking and Securities Commission (*Comisión Nacional bancaria y de Valores* or "***CNBV***") with the prior consent of the Inter-institutional Committee integrated by six permanent members and their alternates, two of whom will be appointed by the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*), two more by the Mexican Central Bank (*Banco de México*) and the final two by CNBV, and whose purpose will be to study and promote innovative financial technologies and plan for their development.

Fintech Law enables FTIs to carry out transactions with virtual assets (*activos virtuales*) and regulate innovative models (*modelos novedosos*) such as cryptocurrencies or other types of assets referred to or traded from blockchain technology. For this, Fintech Law provides that FTIs as well as financial entities (*entidades financieras*) may establish prior approval of their surveillance committees, interfaces that allow connectivity and provide access to their transactional data, without violating financial secrecy obligations.

CNBV Provisions are aimed to preserving the stability and proper functioning of the FTIs in terms of internal controls and risk management, segregation of duties with respect to the modalities of operations they perform and the services they offer, prevention of conflicts of interest, client identification, corporate practices and auditing, accounting, disclosure of information, transparency and fairness in their activities and services.

Such provisions refer to various matters such as requirements for authorization to act as an FTI, its minimum capital, accounting, exceptions to receive cash resources or to make or receive domestic or cross border transfers, mandates and commissions for operational matters, financing authorizations, certificates on risks and risk degree assignment methodologies, amongst others.

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Additionally, CNBV Provisions establish the minimum capital amount for the FTIs, which considered their authorized type of operations, as well as the additional activities they intend to carry out and the risks they would face.

CNBV Provisions also establish specific accounting criteria applicable to FTIs which are consistent with the type of operations they carry out, including those carried out with virtual assets. Such accounting criteria recognize the financial information standards issued by the Mexican Council of Financial Information Standards (*Consejo Mexicano de Normas de Información Financiera*) for non-specialized operations of FTIs, and specifies the treatment related to the preparation of financial information that makes the application of the accounting criteria consistent with the preparation and formulation of the financial statements and their information and transmission to CNBV.

Enacting the CNBV Provisions will also limit FTI operations that are also established, the same ones that consider the applicable regulations to other figures of the financial system, including the amount of those capital securities issuances registered in CNBV's National Securities Registry (*Registro Nacional de Valores*), as well as the principles contained in the Fintech Law relating to innovation, competition and financial inclusion, therefore protecting the interests of public investors.

Also, on September 10, 2018, CNBV issued the General Provisions referred to in Article 58 of the Fintech Law (*Disposiciones de carácter general a que se refiere el Artículo 58 de la Ley para Regular las Instituciones de Tecnología Financiera*) whereby the applicable regulatory framework to FTIs regarding prevention of operations with resources of illicit origin and financing of terrorism were enacted ("***CNBV's Preventive Provisions***").

CNBV's Preventive Provisions establish a methodology so that FTIs can evaluate risks and their exposure, as well as to apply mitigators to avoid being used to carry out operations with resources of illegal origin or finance terrorism. Such provisions establish general "know your client provisions" to enable FTIs to obtain and maintain information of the identification of their clients, the legal instruments that accredit their operations, as well as to have records on the operations carried out with them through an automated system that allows identification of possible unusual operations in their clients' behavior, provide adequate follow up on such operations and maintain security plans for processed information, guaranteeing its integrity, availability and confidentiality.

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