

Financial Technology Institutions in Mexico.

by Emiliano Medina.

Regulation in the finance sector is paramount for the stability and adequate functioning of the economic system and for the safeguarding of the property of those who require said services. For this purpose, there are regulating and supervising entities guaranteeing that banks take all necessary actions to mitigate risks and prevent adverse situations. Technological innovations have recently allowed financial institutions to deliver services that make users' lives even easier. In turn, this has created the need for new regulations to maintain certainty in the financial system.

In the case of Mexico, on March 9th, 2018, the Law to Regulate Financial Technology Institutions (*Ley para Regular las Instituciones de Tecnología Financiera*, or the "Law") came into effect, the first in the country concerning such entities and the services they provide. The Law encompasses two main models of financial technology institutions ("FTI"): Collective Financing Institutions ("CFI") and Electronic Payment Fund Institutions ("EPFI"). Furthermore, the Law contains a section contemplating models that may not appropriately fit in either of the institution types previously mentioned. The main regulatory authorities are the Mexican National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) and the Bank of Mexico (*Banco de México*).

The Law allows FTIs to operate in domestic or foreign currency, or with virtual assets. These can be defined as the electronic representation of a certain amount of money, which can then be used as payment in any sort of transaction. For an asset to be considered virtual, it shall only be transferrable through digital means. Credit institutions in the traditional sense may also operate with virtual assets while complying with the Law and any other regulations issued by the Bank of Mexico for that purpose.

CFIs are the first type of institution regulated by the Law. Their function is to establish contact between entrepreneurs seeking investments, and investors, which collectively contribute to financing a certain transaction, which may be (i) the payment of a debt, (ii) contributing capital to a company in exchange for a percentage of ownership in said company, or (iii) the acquisition of an equal share of ownership over a certain asset or a percentage of the income, earnings or royalties derived from activities performed by the requesting entrepreneur. It should be noted that CFIs only work as intermediaries between entrepreneurs and investors. The Law does not allow CFIs to ask for investments through themselves. The same restriction applies to any person with at least 1% participation in the CFI, administrators, auditors, and any other person that may influence the institution's decision-making process.

The second type of institution provided in the Law is EPFIs. They allow users to open funding accounts and transfer funds in domestic or foreign currency, or virtual assets, among other things, through apps, websites, or other digital platforms. EPFIs are not allowed to give any interests or

earnings to their clients that may accumulate in their accounts; however, they can grant non-monetary benefits in accordance with the conditions set forth by the Bank of Mexico.

Besides the two aforementioned institutions, the Law also establishes the concept of novelty models, which are FTIs that, as their name implies, cannot be classified as either a CFI or an EFPI, but because of their activities or the services they provide, are subject to the supervision of regulatory authorities according to the Law. These authorities may issue temporary authorizations which may not last longer than two years. During this period, the ITF shall operate in a controlled environment, with a limited number of users, so that the regulatory authorities may supervise its performance. Once the trial period finishes, the FTI operating under the novelty model will be able to obtain permanent authorization if the regulatory authorities consider it appropriate.

The enactment of the Law undoubtedly satisfied the urgent need for a legal framework in financial technology matters. Nonetheless, given how constant technological advances are, new laws and regulations will soon be required to continue to adapt to these changes. It will be necessary to be constantly aware of these new regulations, and any guidelines issued by the relevant authorities.

Please consider that we are available to discuss any particular needs that may be applicable in your case or if you have any specific questions regarding any of the financial technology institution models provided in the Law. These models can be highly valuable in creating new businesses and financial entities, and in giving companies access to new forms of financing beyond traditional channels, which can usher in new growth and business opportunities. Please let us know if we can be of any assistance.

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