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COFECE PUBLISHES STUDY ON COMPETITION IN DIGITAL FINANCIAL SERVICES

On October 21, COFECE published a study on the Mexican financial sector, whereby it analyzed the impact of digital financial services (“DFS”) on the conditions of competition and free concurrence in the savings, credit and payment markets, considering that they have an important impact on the welfare of the population (the “Study”).

In COFECE’s opinion, DFS represent an opportunity to improve financial inclusion by offering services at a lower cost and without the need for mobility. However, they raise the risk of perpetuating exclusion if individuals without connectivity, technical skills or use capacity are not tended to, as digital financial services could reduce the growth of physical networks.

In this sense, the principal findings of the Report are the following:

1. Certain services are expensive and financial exclusion is prevalent; approximately half of the adult population does not have a bank account, nine out of ten people do not have a credit card and only a third of the population has paid with digital means.
2. DFS have less need for branch networks and ATMs, which facilitates the entry of new players.
3. The emergence of fintech companies can generate any of the following scenarios: (i) partnership between incumbent banks and fintech, (ii) increased competition or, (iii) financial markets dominated by technological giants.
4. The use of DFS is limited by external factors to the financial system, such as the lack of internet connectivity, the preference for cash payments, the lack of financial and digital education and the size of the informal economy.

5. Fintech companies have entered the market under various legal structures (such as multiple banking companies, Sofipo, Sofom, IFPE, IFC), each of which with its own regulation. However, some of these structures are not designed to operate fully in the digital sphere, which generates the risk of regulatory arbitrage and the possibility of similar activities being subject to different, less strict, regulations, without justification in terms of systemic risk.

6. The authorities have been making secondary regulation more flexible to adapt to the digital environment; however, this is done first for banks and then for the rest of the financial institutions, which creates a barrier to efficient operation of these institutions.

7. There are structural, behavioral and regulatory barriers that make it difficult for users to have multiple financial service providers, such as branch and ATM networks, brand loyalty and switching costs.

8. Several fintech ventures have entered the credit markets through non-financial companies. This strategy implies that entrants enter the Mexican financial system through structures with lower barriers to entry, but offerors operate without the restrictions applicable to regulated entities.

9. Fintech corporate credit has not grown at the same rate as consumer credit. COFECE identified that one of the reasons is that fintech corporate credit cannot be done completely digitally, as it is the case of individuals, which prevents greater automation for such type of financing.

10. In order to promote fintech innovations, the Law to Regulate Financial Technology Institutions introduced the form of “novel models”, with the intention of making regulation more flexible for financial entities that use innovative technology. However, the National Banking and Securities Commission has not yet authorized any company under such “novel model” due to the ambiguity of the definition of innovation contemplated in such statute.

In order for financial services to reach more people, COFECE proposes a series of recommendations in the Study so that the population can benefit from a greater and better offering of financial services, fostering competition and greater financial inclusion. These recommendations are summarized below:

1. Simplified switching between institutions: COFECE proposes generating a simplified process so that users may transfer, if they so choose, their bank account integrally to another institution, maintaining configurations such as direct debit payments.

2. Payroll portability: COFECE suggests that payroll portability be expanded to include the possibility of not only transferring balances between banks, but also to *Sociedades Financieras Populares* (Popular Financial Companies, known as “Sofipos”), thereby granting more options to choose where to receive salary payments.

3. Access to information for users: COFECE suggests simplifying information regarding financial institutions and their services to facilitate comparison between institutions and services, so that individuals can choose the one that best suits their needs. In addition, COFECE suggests encouraging companies to register with regulators.

4. General mechanism for cancellations: COFECE proposes creating a clear procedure for the cancellation of financial products, defining requirements and attention times for users.

5. Promoting digital correspondents: COFECE proposes for more commercial companies to act as contact points for financial institutions and for fintechs to operate as digital correspondents, expanding access to services throughout the country.

6. Encouraging the use of alternative means of payment: The intention is to promote the use of digital payment methods, such as instant transfers, to increase accessibility and reduce costs, especially for small businesses, in order to reduce financial exclusion.

7. Open finance: COFECE advocates moving towards a system of open finance, allowing the secure exchange of financial data between institutions, which could improve competition and personalize financial products for users.

The Study reflects COFECE’s interest in the evolution of the fintech sector so that more people have access to quality financial services, at lower prices and better adapted to their needs, which could improve the financial health of the entire population.

At Ritch Mueller, we have extensive experience in competition, financial and fintech matters, with a team of specialized professionals available to advise economic agents whose activities are carried out in the markets covered by the Study.