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Normative framework to operate with innovative business models

The Law to Regulate Financial Technology Institutions (“Fintech Law”) allows for any company different from Financial Technology Institutions, to employ innovative business models in carrying out their activities, provided that they obtain the temporary authorization referred to in articles 80 and following of the Fintech Law.

Accordingly, on March 11, the Ministry of Finance and Public Credit (SHCP) published in the Federal Official Gazette, General Provisions applicable to innovative business models (“Provisions”) which, among other aspects, establish additional requirements to those foreseen by the Fintech Law for companies to operate through these models.

Regarding the **original criteria for the granting of authorizations**, the Fintech Law states the following:

1. Proposal must involve an innovative business model.
2. Product or service offered to the public must be tested within a controlled environment.
3. Activities to be developed through the innovative model should report a benefit to the client.
4. Project should be available to initiate operations immediately.
5. Project must be open and ready to be tested with a limited number of clients.

The Provisions, in force as of March 12, lay down the following **additional conditions**:

1. Sufficient material and human resources to operate the innovative business model throughout the term of the authorization.
2. Risk mitigation measures for the protection of clients, their resources and information.
3. Insurance, guarantees or other mechanisms to compensate for any damages caused to clients during the term of the authorization.

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Regarding requirements to be met by companies interested in operating through innovative models, Provisions include 14 new requisites, additional to the 10 originally provided by the Fintech Law.

According with the Provisions, companies that wish to expand, update or improve their innovative business model will also need the authorization of the SHCP which, on the other hand, may ask for the opinion of the supervisory agency of the company concerned or, where appropriate, the Bank of Mexico.

Concerning the registration of authorizations, also foreseen in the Fintech Law, Provisions specify the data that must be gathered to that end and set a period of 5 business days for the SHCP to carry out such registration, which should be made public on its website.

Provisions also incorporate new requirements that authorized companies must include in the report described in the Fintech Law, which shall be rendered before the SHCP during the first 15 calendar days of January, April, July and October of each year during the validity of the authorization.

In accordance with the Fintech Law, such report must comprise the following information:

1. Number of operations carried out during reported period.
2. Number of clients to the date of the report.
3. Risk situations that may have risen.

Provisions, on the other hand, include the following additional requirements:

1. Individual and total amount, by type of operation, of each transaction carried out.
2. Contingencies or security incidents that took place.
3. Customer claims or clarifications, and their most recurrent causes.
4. Report on progress for obtaining definitive authorization or register.
5. Data that the SHCP indicates in the temporary authorization.

The SHCP may refer the report to the competent supervisory agency for each case.

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It is worth mentioning that the validity of the temporary authorization may not be greater than 2 years, extendable for one more year in certain cases, and should eventually be replaced by the definitive authorization, registration or concession. Otherwise, authorized entities must execute the exit procedure established by the Fintech Law.

For information regarding this subject, please do not hesitate to contact us at 9178 7000 or through the following e-mail: contacto@ritch.com.mx