

## *Approval of the Mexican Fintech Act*

On March 1<sup>st</sup>, 2018, the Chamber of Deputies approved a **Decree** (“**Decree**”) issuing the Financial Technology Institutions Act and amending and repealing various provisions of the Credit Institutions Act, the Securities Market Act and other related regulations (“**Act**” or “**FinTech Act**”). In accordance with said Decree, the FinTech Act has been sent to the Federal Executive for its promulgation and publication in the Federal Official Gazette.

The FinTech Act aims to regulate the rendering of financial services based on the use of new technologies. This Act, a pioneer in certain aspects, intends to put Mexico at the forefront of the development of financial services, which is expected to have a positive impact on the level of financial inclusion throughout the country and also to improve the conditions of competition in the Mexican financial system.

The financial technology sector is highly dynamic and, therefore, requires a flexible regulatory framework that allow the authorities to mitigate risks without putting obstacles to its development and expansion; all of it in a competitive environment. Hence, the guiding principles of the proposed Act are those of inclusion and financial innovation, consumer protection, preservation of financial stability, promotion of healthy competition and prevention of money laundering and terrorism financing.

The Act focuses on regulating the platforms referred to as “*Financial Technology Institutions*” (“**FTIs**”), which facilitate operations and provide financial services related to the access to financing and investments, issuance services, administration, redemption and transmission of electronic payment funds, in addition to the use of virtual assets in said operations. To this end, the Act recognizes two types of FTIs:

1. *Crowdfunding Institutions*: Refers to platforms that put in direct contact people from the general public, investors and applicants, interested in participating in debt, capital, co-ownership or royalty schemes, thus providing access to new sources of financing to segments of the population that for various reasons do not normally enjoy access to traditional financial institutions.
2. *Electronic Payment Funds Institutions*: Refers to the platforms that perform the issuance, administration, redemption and transmission of electronic payment funds, these being understood as the monetary value issued simultaneously with the reception of legal currency that serves to make payments and transfers.

These two new figures will expand the Mexican financial market to operations that were not previously specifically regulated, making it a more flexible market and with a vast array of opportunities for expansion and growth.

However, the FinTech Act does not detail the regulatory framework applicable to certain matters such as, among others, specific registration conditions, minimum capital, transaction limits, information security, internal corporate governance of the TFIs. To know the details on specific conditions of registration and

operation of these institutions we will have to wait for the National Banking and Securities Commission (among other authorities) to formulate the secondary provisions, which, according to the Decree, must be issued within a period between six and twenty-four months from the publication of the Act in the Federal Official Gazette.

Finally, it is important to note that the FinTech Act provides that people who, upon its entering into force, are performing any of the regulated activities, may continue to carry out such activities until the competent authority resolves on their request for authorization to operate, which they are obliged to perform in a period not exceeding twelve months from that moment.

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Sincerely,

***Von Wobeser & Sierra, S.C.***

Mexico City, March 7<sup>th</sup>, 2018