

Circulars issued by the Bank of Mexico in relation to risk mitigation, innovative models, virtual assets and foreign currency operations

The Bank of Mexico [Banco de México (“**Banxico**”), on March 7 and 8, 2019, published in the Official Federal Gazette (the “**DOF**”) the circulars 3/2019; 4/2019; 5/2019 and 6/2019 (altogether the “**Circulars**”):

- i. Through **Circular 3/2019** the Interbank Electronic Payments System Rules [*Reglas del Sistema de Pagos Electrónicos Interbancarios* (the “**SPEI**”), were amended in relation to risk mitigation, establishing the exceptions under which SPEI participants can open client accounts corresponding to subjects different from financial entities that regularly and professionally offer exchanges or purchase and sale of virtual assets;
- ii. Through **Circular 4/2019** the General Provisions applicable to Credit Institutions and Financial Technology Institutions in operations they carry out with virtual assets [*Disposiciones de Carácter General aplicables a las Instituciones de Crédito e Instituciones de Tecnología Financiera en las operaciones que realicen con activos virtuales* (the “**Provisions**”) were issued, which (i) establish the characteristics that requests for authorization to carry out operations with virtual assets must meet; (ii) determine and establish the characteristics, terms, conditions, restrictions and information related to operations with virtual assets; and (iii) establish measures to lessen the risk in relation to prevention of operations with resources of unlawful origin and financing of terrorism applicable to the operators and holders of these virtual assets. Due to the novelty of the regulated matters, the Provisions establish a period of sixty bank business days from March 7th of this year for any person to present to Banxico comments or suggestions regarding the Provisions;
- iii. Through **Circular 5/2019** the General Provisions in Relation to Innovative Models [*Disposiciones de Carácter General en Materia de Modelos Novedosos* (as defined in the Law Regulating Financial Technology Institutions, hereinafter the “**Law**”) were issued, published in the DOF on March 9, 2018, which establish the criteria and conditions that must be complied with by entities incorporated under Mexican commercial law, different from Financial Technology Institutions, Financial Entities and other subjects supervised by a regulatory commission or by Banxico, that wish to request their authorization to carry out the services of routing, clearing and settlement or any combination of these, by or through Innovative Models. In these provisions special emphasis is given to the mechanisms for risk mitigation, highlighting the risks associated with the operation taking into account at least the financial, operative, informatic security, operations with resources of unlawful origin and reputational risks; and
- iv. Through **Circular 6/2019** the General Provisions applicable to Crowdfunding Institutions in their operations in foreign currency and information reports to Bank of Mexico [*Disposiciones de Carácter General aplicables a las Instituciones de Financiamiento Colectivo en las operaciones que realicen en moneda extranjera y los reportes de información al Banco de México*] were issued. Considering that the Law establishes

that the Crowdfunding Institutions [Instituciones de Financiamiento Colectivo (the “IFC”)] can carry out operations with foreign currency and must send the information that Banxico requests from them, the terms and conditions are established for the request by the IFC to Banxico for authorization to carry out operations with foreign currency, and it is determined that the IFC are obligated to supply to Banxico the transactional information of their operations.

Circular 3/2019 will go into force in sixty calendar days from March 7, 2019 and Circulars 4/2019, 5/2019 and 6/2019 entered into force on the day following their publication in the DOF.

In VWyS we have specialized lawyers with broad knowledge on the law applicable to the financial and banking sectors, so please let us know if you have any questions or comments in this regard or on other matters.

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Sincerely,

Von Wobeser & Sierra, S.C.

Mexico City, March 20, 2019.