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The Fintech Law.
by Vera García.

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

The Fintech Law.

by Vera García*.

“**T**he Law to regulate Financial Technologies, as better known as the “Fintech Law” resulted from an initiative sent by the Federal Executive to de Senate on October 10th of 2017. It was Approved by the Senate on December 5th of the same year, and it was published in the Federal Official Gazette on March 9th of 2018¹. *FinTech stands for Financial Technologies [...] FinTech is coming to represent technologies that are disrupting traditional financial services, including mobile payments, money transfers, loans, fundraising, and asset management.*”²

The Fintech Law propose is based on five principles: **i)** financial inclusion and innovation; **ii)** customer protection; **iii)** competition promotion; **iv)** preservation of financial stability; and **v)** anti-laundering prevention. Besides, its main objective is to regulate and encourage financial services provided by financial technology institutions, as well as to regulate their organization and operation, particularly from those of the private sector. Additionally, it seeks to boost financial inclusion through technology, in order to provide financial services.

Which are the entities that are regulated by the Fintech Law? what activities will be carried out?

I. Crowdfunding institutions (*Instituciones de Financiamiento Colectivo: IFP*)³

The crowdfunding institutions, are platforms that interlace both investors and applicants with the purpose of allowing them to finance applicants, participate in debt, capital, co-ownership or royalty schemes. The risk that the investor assumes is rewarded by a performance granted by the applicant. The mentioned schemes, are regulated in three forms:

1. **Debt collective financing institutions** arranges a direct contact between applicants and investors who require financing.
2. **Capital** investors buy or acquire titles representative of the corporate capital of the requesting legal entities.
3. **Collective financing institutions of co-ownership of royalties** enables the investor’s contribution in projects in order to obtain a participation, it can be either a good or right.

Activities that may be carried out by the Collective Financing Institutions.

The activities include receiving and publicizing requests regarding operations of collective financing, providing solid information for the potential investor, regarding the characteristics of the requests for operations of collective financing of the applicants and their projects. Additionally, these institutions will facilitate the permanent investments by promoting the use of electronic means through which investors and applicants, will obtain loans and credits from any person, either national or foreign, for the fulfillment of its corporate object.

II. Institutions of electronic payment funds (*Instituciones de Fondos de Pago Electrónico: IFEPE*)⁴

These institutions: carry out broadcasting services, administration, redemption and electronic transmission of payment with national currency, foreign currency or virtual assets (i.e Mercado Libre, PayPal Mexico).

Activities that may be carried out by Institutions of electronic payment funds.

Performing operations with virtual assets, obtaining loans and credits form any person either national or

* IN COLABORATION WITH ASTRID DE LA FUENTE AND RODRIGO LOPEZ

1.- http://www.dof.gob.mx/nota_detalle.php?codigo=5515623&fecha=09/03/2018

2.- *The Complete Beginner’s Guide to FinTech In 2017*, Bernard Marr, <https://www.forbes.com/sites/bernardmarr/2017/02/10/a-complete-beginners-guide-to-fintech-in-2017/>

3.- *Chapter I of the Fintech Law*, consulted on February 18, 2019

4.- *Chapter II of the Fintech Law*, consulted on February 18, 2019

foreign, acquiring or renting movable and immovable property, contact third parties in order to facilitate the purchase, sale or transfer of virtual assets, from their own account to their clients, etc.

III. Virtual Assets⁵

IFPEs and IFCs may operate with the virtual assets (also known as cryptocurrencies) authorized by Banco de Mexico (Banxico) will define which virtual assets will be approved and will define the conditions and restrictions of their operations.

This is important because in recent years, there has been a boom in the usage of cryptocurrencies: *Bitcoin; Bitcoin cash, Ethereum or Litecoin*, among others so it is important that these assets have been recognized the Fintech Law.

IV. Sandbox

A Sandbox is “Legal space” under which a regulated activity (which still needs an authorization, registration or concession) is allowed through an ad hoc regulatory regime for a limited period. This scheme is valid, both for new businesses not yet authorized, and for established financial institutions.

The Financial Technology Institutions (ITF for its acronym in Spanish) and the financial entities, might obtain a temporary authorization from the competent financial authority, to prove their innovative business models based on technology in financial activities currently regulated by a law of the current financial system and through a controlled scope of application.

This is important, because there is a huge need to develop regulations for all models that are emerging and with this system, new models are not being restricted by standard legislation and still does not neglect the protection of consumer rights. Furthermore, this is expecting to generate, a whole new infrastructure for Mexican economy as well as, for foreign investors⁶.

“FinTech stands for Financial Technologies [...] FinTech is coming to represent technologies that are disrupting traditional financial services, including mobile payments, money transfers, loans, fundraising, and asset management.”

V. Interfaces for standardized computer applications (application program interface: APIS)⁷

Technological specifications used by applications to communicate with financial entities (e.g., share information, etc.). ITFs, financial institutions, clearing houses and information societies credit must implement APIS that allow connectivity with, and access to, other APIS to share open financial data, collective data and transactional data.

After reviewing the types of entities regulated by the Fintech Law, it can be said that is very encouraging that Mexico is one of the first countries to ever design a legislation dedicated exclusively to the financial technology sector, as the economy nowadays, is taking a huge step, towards the technologized environment. Consequently, law adaptations and infrastructure have become necessary to overcome these breakthroughs. Furthermore, talking into account, that usually reality goes ahead legislation, the idea is that this law can be adjusted to the future technology and hopefully, will serve as a legal framework that encourages investment in Mexico.

5.- Chapter III of the Fintech Law, consulted on February 18, 2019

6.- Tom Groenfeldt. (January 17, 2019). Fintech Regulators-- Look South where Mexico show how to do it. *Forbes*, 1, <https://www.forbes.com.mx/mexico-es-un-ejemplo-para-reguladores-de-fintech-a-nivel-mundial/>.

7.- Mónica Redondo. (March 14, 2018). Fintech México: “La regulación de la API es la columna vertebral de la Ley Fintech. *Hipertextual*, 1, <https://hipertextual.com/entrevistas/fintech-mexico-regulacion-api-es-columna-vertebral-ley-fintech>.

Human Rights crisis lurks in Mexico; inherit earrings.

The 40,000 missing and other pending issues that the federal administration inherited form a “human rights crisis” that the government of Andrés Manuel López Obrador must face, said Luis Raúl González Pérez, head of the National Human Rights Commission (CNDH). The national ombudsman said that the new federal administration should resume the pending issues in the human rights agenda. In addition to the disappearances, González Pérez considered as pending the murders of human rights defenders and journalists, violence against women, femicides, trafficking in persons, poverty and inequality. And he assured that the new government will have to be open and be accompanied by the autonomous bodies and the civilian population to provide a solution. <https://www.excelsior.com.mx/nacional/crisis-en-dh-acecha-a-mexico-hereda-pendientes/1298395> 25/02/2019.

Mexico reiterates categorical rejection of the use of force in Venezuela.

In the face of violent clashes last Saturday at points on the border between Venezuela and Colombia, the Mexican government reiterated the call to all parties involved in the Venezuelan conflict, “both internally and externally, to categorically reject the use of force and find a peaceful solution to the situation that this South American country is going through.” In a statement, the Foreign Ministry said that the dialogue in Venezuela, with a specific strategic plan, remains an alternative to reach a peaceful solution and becomes more relevant after the clashes on Saturday. <https://www.jornada.com.mx/ultimas/2019/02/25/reitera-mexico-rechazo-categorico-del-uso-de-la-fuerza-en-venezuela-4307.html> 25/02/2019.

The Ministry of Economy imposes protections on imports of steel, textiles, clothing and footwear.

The Ministry of Economy announced that between this and the following week will apply tariffs on imports of steel, footwear, clothing and textiles, from third countries with which there is no commercial agreement, ranging from 15%, 25 and 30%, respectively, for a period of six months. Ernesto Acevedo, undersecretary of Industry and Commerce of the Ministry of Economy, explained that these measures will protect different industries from the unfair entry of similar products from China, Russia, Taiwan, among other nations. At a press conference, the official mentioned that the measure will be effective six months from its entry into force, to analyze the resolution of measure 232 applied by the United States to steel and aluminum with 25% and 10% of tariff, in addition to reviewing the agreements reached by the government of Donald Trump with China, and thus determine other measures. Acevedo said that in the textile sector will be added new tariff fractions to be protected by the safeguard of 25 or 30%. In addition to work with other agencies related to foreign trade as Treasury to define strategies that give “blows” to technical smuggling. <https://www.eleconomista.com.mx/empresas/SE-impone-protecciones-a-importaciones-de-acero-textiles-vestido-y-calzado-20190225-0069.html> 25/02/2019.

Increase of the international reserves of Mexico.

On the 22th of February the balance of the international reserves of Mexico increased from 174 thousand 793 million dollars to 175 thousand 694 million dollars that means it increased 901 million dollars compared to last year. The monetary base decreased 15 thousand 937 million pesos, reaching a balance of One billion 574 thousand 253 million pesos. That means an increase of 97 thousand 62million pesos compared to the year before. <https://www.eleconomista.com.mx/empresas/Reservas-internacionales-registran-alza-semanal-de-193-millones-de-dolares-20190226-0073.html> 26/02/2019.

The National Guard is underway.

Alfonso Duarzo Montaña, the Secretary of Public and Citizen Security, announced that the federal Government, already has two teams working towards the creation of the National Guard. One of them, oversees the legislative and administrative matters, while the other, sees the transition program from the Federal Police, to the new security establishment. Moreover, he confirmed that if the National Guard is approved, it could start operating the second week of March. <https://www.excelsior.com.mx/nacional/guardia-nacional-ya-esta-en-marcha-durazo-llama-a-aprobarla/1298582> 26/02/2019.

U.S. opens anti-dumping probe into steel imports from China, Canada, Mexico.

The U.S. Commerce Department announced Tuesday it will open a new anti-dumping probe to determine whether fabricated structural steel from Canada, China and Mexico is being sold at below fair value. <https://www.reuters.com/article/us-usa-steel-investigation/us-opens-anti-dumping-probe-into-steel-imports-from-china-canada-mexico-idUSKCN1QF2S1> 26/02/2019.

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VERA GARCÍA

Attorney at Law: Admitted to practice law in 2012. Ms. Vera García, of Mexican nationality obtained her law degree at Tecnológico de Monterrey, México; attended post- grades studies in Corporate Law by Insituto Tecnológico Autonomo Mexicano; holds the Certificates of International Air Law; Airline Contract Law; Aircraft Acquisition and Financing; and Law of Aviation Insurance by the International Air Transport Association (IATA).

LANGUAGES: Spanish and English.

PRACTICE AREAS: Corporate and Aviation law.

e-mail: vgarcia@asyv.com


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Prol. Reforma No. 1190 25th Floor,
Santa Fe México D.F. 05349
t. (52.55) 52.92.78.14
f. (52.55) 52.92.78.06
www.asyv.com / www.asyv.aero

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