

2012 FINANCIAL SYSTEM REFORMS

This document contains a brief description of the most important provisions issued by Banco de México in 2012. In order to facilitate consultation, information about such regulations is divided into three parts. The first relates to provisions issued as Central Bank, the second to provisions issued as financial agent of the Federal Government and the Bank Savings Protection Institute (IPAB), and the third to the issuance of the new financial act.

I. PROVISIONS ISSUED AS CENTRAL BANK

BASIC COMMISSION-EXEMPT PAYROLL ACCOUNTS

In order to protect the interests of the public and increase transparency and competition with respect to bank services, workers were allowed to open, either directly or at their employers' request, basic commission-exempt payroll accounts where their wages, pensions and other employment-related benefits could be deposited, even by exercising the right of transfer conferred under article 18 of the Financial Services Transparency and Regulation Law.¹

Likewise, and with a view to protecting the interests of the general public, Banco de México stipulated that when banks use automatic teller machines to inform clients about the transformation of a basic payroll account into a basic account for the general public or the closure of such an account, they must provide evidence that the information consisted of clear and precise messages.

OPERATIONS OF BANKS AND FINANCIERA RURAL

In order to facilitate the consultation of regulations applicable to these institutions in the area of borrowing, lending and services transactions, their transactions with the Central Bank and foreign exchange and investment risk position regimes, their content was compiled, standardized and systematized through the issuance of "*Provisions Applicable to the Transactions of Banks and Financiera Rural*".²

To facilitate their understanding, these provisions use a similar structure to the one used in laws by dividing topics into titles, chapters, paragraphs, sections and articles. A subject index and titles were also included for each of the articles as a guide for prompt identification of their content. Furthermore, and in order to standardize terms used throughout the Circular, which had been used with some differences, an article of definitions was created.

It should be noted that provisions contained in diverse Circulars were also included in this compilation, including those applicable to the transfer of wages, pensions and other labor benefits; direct debits linked to bank accounts, and the exchange rate used for foreign currency

¹ Circular 1/2012, directed at banks, limited purpose non-bank banks and regulated multiple purpose non-bank banks dated January 27th, 2012. This Circular was published in the Official Federal Gazette on January 31st, 2012 and came into effect on April 30th, 2012.

² Circular 3/2012, directed at banks and Financiera Rural, dated February 24th, 2012. This Circular was published in the Official Federal Gazette on March 2nd, 2012 and came into effect on June 1st, 2012.

transactions payable in Mexico and the amount as of which checks must be nominative. Furthermore, in cases where the regulation applies not only to banks and Financiera Rural but also to other financial intermediaries, reference is expressly made to the circulars that regulate such transactions.³

REGIME APPLICABLE TO DERIVATIVE TRANSACTIONS

In order to continue fostering the healthy development of the financial system as well as standardize the regime applicable to banks, brokerage firms, mutual funds, limited purpose financial companies and Financiera Rural, regulations related to derivatives were grouped together in a single piece of legislation. Furthermore, any debt instruments and indexes based on such rates were included as underlying assets.⁴

In order to standardize the regime applicable to retirement mutual funds, at the request of the Retirement Savings System National Commission, Banco de México included new underlying assets on which such transactions can be entered into.⁵

Subsequently, in order to continue to promote the use of financial products for mitigating risk caused by changes in product prices, heating fuel, diesel oil, gasoline and crude oil, nickel, platinum, lead, and zinc were permitted as underlying assets.⁶

AUCTIONS OF BREMS AND GOVERNMENT SECURITIES BY BANCO DE MÉXICO

In order to standardize, uniform and compile in a single piece of legislation regulations related to monetary regulation bond and government securities auctions held by Banco de México for monetary regulation purposes, the Central Bank issued *“Rules for Banco de México Monetary Regulation Bond and Government Securities Auctions”*.⁷

The aforementioned Rules simplified and facilitated full consultation of the regime, as the regulations pertaining to such auctions were contained in diverse provisions directed at different intermediaries that such Rules repealed.⁸

³ For example, provisions related to credit cards; interest rates; limits on the collection of interest paid in advance; total annual cost; payment accreditation; early payments and derivative transactions.

⁴ Circular 4/2012, directed at banks, brokerage firms, mutual funds, limited purpose non-bank banks and Financiera Rural, dated February 24th, 2012. This Circular was published in the Official Federal Gazette on March 2nd, 2012 and came into effect on June 1st, 2012.

⁵ Circular 8/2012, directed a retirement mutual funds dated June 13th, 2012. This Circular was published in the Official Federal Gazette on June 15th, 2012 and came into effect on June 20th, 2012.

⁶ Circular 9/2012, directed at banks, brokerage firms, mutual funds, limited purpose non-bank banks and Financiera Rural, dated June 13th, 2012. This Circular was published in the Official Federal Gazette on June 15th, 2012 and came into effect on June 20th, 2012.

⁷ Circular 6/2012, directed at banks, brokerage firms, mutual funds, retirement mutual funds and Financiera Rural, dated February 24th, 2012. This Circular was published in the Official Federal Gazette on March 2nd, 2012 and came into effect on June 1st, 2012.

⁸ Repealed provisions include Annex 7 of Circular 2019/95 directed at commercial banks; Annex 5 of Circular 1/2006 directed at development banks and Financiera Rural; appendices 1 and 2 of Annex 4 of Circular 115/2002 directed at brokerage Firms; Circular 1/2002 directed a mutual funds; Circular 2/2006 directed at banks, brokerage firms and mutual funds, and Circular 40/2010, directed at brokerage firms, mutual funds and retirement mutual funds.

PROVISIONS APPLICABLE TO CREDIT INFORMATION COMPANIES

Modifications were made to provisions that regulate credit information companies to facilitate mechanisms for verifying the identity of individuals with a business activity and corporations. It was established that when such users request a Special Credit Report through the web pages of credit information companies or by telephone, fax, mail or email, to verify their identity among other things they must provide the type of credit and the month and year when the loan was granted or when the first drawdown took place.

Furthermore, starting on June 3rd, 2013, how the date as of which banks must inform clients of the “outstanding principal balance” on loans is determined will be adjusted so that based on that date, and not on the “actual balance”, which includes principal and interest, records of loans amounting to less than the equivalent of one thousand Units of Investment can be eliminated. The aim of this is to encourage the elimination of a larger number of records, which is in the interests of respective debtors.⁹

FUND TRANSFER SERVICE

Given the importance of remittances to the elaboration of diverse local economy indicators and statistics by the Central Bank, “*Fund Transfer Rules*” were issued among other things to standardize the way and terms under which banks and companies that provide this service must present the corresponding information to Banco de México.¹⁰

ELECTRONIC ATTENTION MODULE (EAM)

Banco de México issued new rules for EAM, mainly so it could be used by a greater number of financial system participants besides the financial authorities and bodies requesting it to make procedures for receiving authorization and consultation requests, application responses, notifications and Central Bank resolutions more secure and efficient.¹¹

TRANSACTIONS ENTERED INTO BY COMMERCIAL BANKS WITH RELEVANT PERSONS

In order to implement measures aimed at preserving the solvency, liquidity and stability of the financial system, Banco de México issued “*Rules for Transactions entered into by Commercial Banks with Relevant Persons*”.¹²

These rules established the obligation of commercial banks to seek Banco de México’s authorization at least 20 bank working days prior to any contract or other legal act entered into

⁹ Circular 10/2012 directed at credit information companies dated July 3rd, 2012. This Circular was published in the Official Federal Gazette on July 5th, 2012, some modifications came into effect on October 1st, 2012 and others on June 3rd, 2013.

¹⁰ Circular 12/2012 directed at banks and companies that provide the fund transfer service dated July 16th, 2012. This Circular was published in the Official Federal Gazette on July 24th, 2012 and came into effect on October 1st, 2012.

¹¹ Circular 13/2012 directed at banks, Financiera Rural and brokerage firms dated September 11th, 2012. This Circular was published in the Official Federal Gazette on September 17th, 2012 and came into effect on October 15th, 2012.

¹² Circular 15/2012 directed at commercial banks dated October 8th, 2012. This Circular was published in the Official Federal Gazette on October 10th, 2012 and came into effect on October 11th, 2012.

with relevant persons¹³ involving the transfer of rights or debts to the respective commercial bank for an amount exceeding the equivalent of 25% of the bank's tier 1 capital.

II. PROVISIONS ISSUED AS FINANCIAL AGENT OF THE FEDERAL GOVERNMENT AND IPAB

AUCTIONS FOR THE PLACEMENT OF GOVERNMENT AND IPAB SECURITIES

New rules were issued to standardize, uniform and compile in a single piece of legislation regulations applicable to banks, brokerage firms, mutual funds, retirement mutual funds and Financiera Rural in relation to auctions of government securities and Bank Savings Protection Institute securities held by Banco de México for monetary regulation purposes.¹⁴

The issuance of said Circular repealed diverse provisions applicable up until then to intermediaries mentioned in the paragraph above.¹⁵

SYNDICATED AUCTIONS OF GOVERNMENT SECURITIES

In order to make notifications of such auctions more flexible, Banco de México established that they could be announced at 11:30 hours on the last working day of the week prior to the one in which the corresponding auction is scheduled to take place, or at another date or time provided for a particular auction.¹⁶

PROCEDURE FOR ACTING AS MARKET MAKERS

In order to foster transparency when measuring the activity index of banks that are market makers or else aspire to be, how the incentive is incorporated in said index was modified to include buy-sell transactions undertaken by banks in the MexDer and local currency-denominated fixed-rate

¹³ The following individuals are considered relevant persons under these rules:

Individuals:

- (i) that own either directly or indirectly 2% or more of the commercial bank's capital or the capital of companies that are members of their financial group;
- (ii) members of their board or companies that are members of the financial group;
- (iii) spouses or persons who have kinship through first degree direct line consanguinity or affinity and second degree or civil consanguinity or affinity with the individuals mentioned;
- (iv) individuals other than officers and employees who intend to force the institution with their signature, and
- (v) board members and officers of corporations in which the institution and companies that are members of the group directly or indirectly own 10% or more of the capital.

And corporations:

- (i) members of the business group or consortium to which commercial banks belong;
- (ii) those with which the institutions maintain business links, and
- (iii) trusts in which the previously mentioned corporations are trustors or trustees.

¹⁴ Circular 5/2012 directed at banks, brokerage firms, mutual funds retirement mutual funds and Financiera Rural dated February 24th, 2012. This Circular was published in the Official Federal Gazette on March 2nd, 2012, and came into effect on June 1st, 2012.

¹⁵ Repealed provisions include Annex 6 of Circular 2019/95; Annex 3 of Circular 1/2006; appendices 1 and 2 of Annex 3 of Circular 115/2002 and Circular 2/2002.

¹⁶ Circular 7/2012, directed at banks and brokerage houses, dated April 10th, 2012. This Circular was published in the Official Federal Gazette on April 11th, 2012 and came into effect the same day.

Federal Treasury Certificate and United Mexican States Federal Government Development Bond future contracts.¹⁷

Furthermore, some transfers were adjusted to refer to the new Circular 3/2012 as well as to continue fostering the development of the investment-unit denominated Federal Government Development Bonds market (Udibonos).¹⁸

AUCTIONS OF IPAB SIMULTANEOUS BUYS AND SELLS

In order to continue strengthening the IPAB's position as a debt issuer through proactive debt management, improve the liquidity of the securities it issues, and secure the trust of public investors, Banco de México, as financial agent of the IPAB, and with the Institute's permission, issued "*Rules for simultaneous IPAB buy and sell auctions*".

¹⁷ Circular 2/2012 directed at banks and brokerage firms dated February 13th, 2012. This Circular was published in the Official Federal Gazette on February 15th, 2012 and came into effect on February 16th, 2012.

¹⁸ Circular 11/2012 directed at banks and brokerage firms dated July 9th, 2012. This Circular was published in the Official Federal Gazette on July 12th, 2012 and came into effect on August 1st, 2012.

The aim of this was to implement buy transactions related to Savings Protection Bonds (BPAs) and Savings Protection Bonds with a quarterly coupon (BPAT) as well as sell transactions in Savings Protection Bonds with a monthly coupon and an additional reference interest rate (BPAG28), and Savings Protection Bonds with a quarterly coupon and an additional reference rate (BPAG91).¹⁹

AUCTIONS FOR THE PLACEMENT OF SEGREGATED UDIBONO COUPONS

In order to meet the needs of diverse securities market investors to negotiate the principal and interest to cover their long-term debt and offer intermediate terms for different amounts as well as strengthen the liquidity of UDIBONOS, the Federal Government instructed Banco de México as financial agent to undertake auctions that separate the principal and interest of such securities for which Banco de México issued special regulations.²⁰

III. ISSUANCE OF A NEW FINANCIAL ACT

DECREE issuing the Federal Law on the Prevention and Identification of Operations Involving Funds derived from Illicit Sources²¹

The aim of the Act is to protect the financial system and local economy by establishing measures and procedures for preventing and detecting acts or transactions involving illicit resources through an inter-institutional coordination that gathers useful elements for the investigation and pursuit of criminal transactions involving funds derived from illicit sources, related funds, the financial structures of criminal organizations and avoidance of the use of funds to finance them.

The Act defines the following as a “*Vulnerable Activity*”: i) acts or transactions linked to activities that organized crime can use for money laundering processes, or else terrorism financing activities such as betting games, the sale of prepaid cards and the frequent sale of travelers’ checks, and ii) activities (acts, transactions and services) undertaken by financial entities in accordance with the laws that regulate them.

The main obligations of those undertaking “*Vulnerable Activities*” consist of: i) identifying clients and checking their identity; ii) requesting information about the client’s activity or occupation; iii) requesting from clients participating in “*Vulnerable Activities*” information about the owner or beneficiary of such activities; iv) safekeeping, protecting and preventing the destruction or concealment of information and documentation that supports “*Vulnerable Activity*” for at least five years; v) facilitating verification visits, and vi) submitting notifications to the Ministry of Finance and Public Credit (SHCP) within the times and forms foreseen by the Law.

The President will issue the Regulations to the Act within a period of thirty days after it comes into effect. Among other things, the Regulations must establish simplified measures for complying with

¹⁹ Circular 14/2012 directed at banks, brokerage firms, mutual funds and retirement mutual funds dated September 28th, 2012. This Circular was published in the Official Federal Gazette on October 2nd, 2012 and came into effect the next bank working day following its publication.

²⁰ Circular 16/2012 directed at banks, dated November 6th, 2012. This Circular was published in the Official Federal Gazette on November 8th, 2012 and came into effect the next bank working day following its publication.

²¹ The Law was published in the Official Federal Gazette on October 17th, 2012 and came into effect on July 17th, 2013.

the obligations by persons undertaking “*Vulnerable Activities*” based on their risk level and who performs them.

The “*Financial Analysis Specialized Unit*” is created. It will be an organ of the Chief Prosecutor’s Office and will be responsible for financial and accounting analysis related to transactions involving funds from illegal sources and its head will constitute the Justice Ministry. Its powers will include, among others, the ability to request reports, documents, opinions and evidence in general from public ministry departments and entities at all three levels of government, from other authorities, from autonomous public bodies, including constitutional ones, and persons linked to “*Vulnerable Activities*” able to provide elements for the proper exercise of their attributes.

Payment system administrators, including Banco de México, corporations or trusts that undertake clearing processes or transfers of information concerning financial system payment means; those who clear and settle obligations derived from bank, brokerage or financial contracts and persons who issue, manage, operate or render credit card, debit, prepaid, and cash access services, electronic payment services and any others that provide services for such purposes, should provide the Ministry of Finance and Public Credit with the information and documents they have access to when required in writing.

Likewise, any exchange of information and documents between Banco de México and the Ministry of Finance and Public Credit shall take place in accordance with the collaboration agreements they have entered into.