

2009 FINANCIAL SYSTEM REFORMS

This document is divided into two sections. The first is a brief description of the most important provisions Banco de México issued in 2009. In order to facilitate their consultation the provisions were ordered in the following headings: I.1 Foreign Exchange and Monetary Policy; I.2 As a financial agent of the Federal Government of the United Mexican States; I.3 As financial system regulator, and I.4 Provisions issued under the Financial Service Transparency and Regulation Law. The second section is a brief summary of the most important reforms to financial legislation during the period.

I. PROVISIONS ISSUED BY BANCO DE MÉXICO

I.1 In Foreign Exchange and Monetary Policy

UNITED STATES DOLLAR AUCTION (US)

In accordance with the March 5th, 2009 agreement of the Foreign Exchange Commission to establish a mechanism to guarantee the sale of a large portion of international reserves in order to promote orderly conditions in the foreign exchange market, Banco de México decreed that as of March 2009:

1. US dollars would continue to be auctioned on a daily basis at a minimum exchange rate of two percent above the exchange rate set on the previous working day and the daily amount auctioned using this mechanism would decrease from 300 million to 200 million dollars, and
2. The daily sale of an additional 100 million dollars through US dollar sale auctions began with no minimum price, the characteristics of which (amount of dollars for auction, type of auction, timetable for holding auctions and making bids) are announced daily in calls for bids.¹

Subsequently, in compliance with the Foreign Exchange Commission agreement announced on May 29th, 2009, regarding the reduction in auction US dollar sale amounts at a minimum exchange rate which take place on a daily basis referred to in point 1 above, regulation of the auction amount was eliminated, and it was established that it would be announced in the call for bids and correspond to one that had been previously agreed upon

and announced by the Commission for that purpose.²

Furthermore, with respect to the Foreign Exchange Commission agreement of May 29th, 2009 as well as the one announced on September 1st of the same year, the amount of the daily US dollar auctions referred to in number 2 was reduced from 100 to 50 million and as of October 1st, 2009, they stopped taking place.

US DOLLAR CREDIT AUCTIONS

With the funds obtained from swap lines with the US Federal Reserve, and in order to ease the situation of private sector participants facing pressures obtaining long-term financing, rules applicable to US dollar credit auctions were issued.³

ASSET AND LIABILITY ADMISSION REGIMES WAIVERS FOR FOREIGN CURRENCY TRANSACTIONS

Waivers are established for asset and liability admission regimes applicable to multiple banking institutions so that the US dollar amount assigned as a result of their participation in US dollar credit auctions is not computed in the case of those regimes. The aim is to grant those institutions regulatory facilities in relation to their participation in the aforementioned auctions.⁴

PROVISIONS APPLICABLE TO THE CALCULATION OF THE EXCHANGE RATE FOR SETTLING FOREIGN CURRENCY OBLIGATIONS PAYABLE IN THE MEXICAN REPUBLIC (FIX)

Modifications were made to the method for obtaining quotations used to determine the exchange rate for settling foreign currency obligations payable in the Mexican Republic so that as of November 11th, 2009, in order to obtain said quotations foreign exchange transaction platforms or other similar electronic media were used which reflect prevailing conditions in the foreign exchange market. The current procedure involving quotations provided by banks was retained as an alternative mechanism in the event of it not being possible to access information using the aforementioned electronic media.

Under the new procedure, every bank working day, Banco de México obtains US dollar buy/ sell quotations from one of the aforementioned foreign exchange transaction platforms or other similar electronic media that in its opinion reflect prevailing conditions in the wholesale foreign exchange market during the following three periods of the day: from 9:00:00 to 9:59:00 hours, from 10:00:00 to 10:59:00 hours and from 11:00:00 to 12:00:00 hours.

Banco de México subsequently selects at random from each of the three periods the highest buy quotation and the lowest sell quotation that in its opinion represent prevailing conditions in the wholesale foreign exchange market at the time they are obtained and proceeds to calculate the arithmetic average of the three equilibrium exchange rates for their publication in the Official Federal Gazette.⁵

I.2 As a financial agent of the Federal Government of the United Mexican States

At the request of the Ministry of Finance and Public Credit (SHCP) Banco de México made changes to the "Rules for Swapping Federal Government Development Bonds with a Fixed Interest Rate and Federal Government Development Bonds denominated in Investment Units", so that auctions can take place in which the SHCP, based on Banco de México's opinion, sets the price of the target issuances or the one corresponding to settlement issuances; in other words, the price of the Bonds to be swapped (offered or received).⁶

I.3 As financial system regulator

RULES BANKS, BROKERAGE FIRMS, MUTUAL FUNDS, INVESTMENT COMPANIES SPECIALIZING IN RETIREMENT FUNDS AND FINANCIERA RURAL MUST FOLLOW IN RELATION TO REPO TRANSACTIONS

In order to broaden the universe of securities potentially involved in these transactions, the Rules were modified so that debt securities with a payment guarantee from Sociedad Hipotecaria Federal, S.N.C. amounting to at least 65% of the principal, interest and accessories of the security in question can be included in such transactions.⁷

Furthermore, in order to encourage repo transactions, the definition of securities permitted in these transactions was modified to eliminate the local currency denomination requirement.

The price and premium of the repos could also be freely denominated in local currency, foreign currency or in investment units (UDIs), independently of the denomination of the securities involved in the transaction. The aim of this was to reduce transaction costs and market segregation by taking into account the fact that foreign exchange risk can be efficiently managed through margin calls and appropriate guarantees.

Finally entities must keep a record of the counterparty's consent to entering into transactions of this type.⁸

RULES BANKS, BROKERAGE FIRMS, MUTUAL FUNDS, INVESTMENT COMPANIES SPECIALIZING IN RETIREMENT FUNDS AND FINANCIERA RURAL MUST FOLLOW IN RELATION TO SECURITIES LENDING TRANSACTIONS

In order to foster securities lending transactions, the change made to the abovementioned repo rules is included so that the premium the borrower is obliged to pay in exchange for such transactions can be freely determined in local currency, foreign currency, or in UDIS, independently of the denomination of the shares and securities involved in the transaction as well as to establish the entity's obligation to keep a record of the client or entity's consent to entering into transactions under these terms and conditions.⁹

RULES MULTIPLE BANKING INSTITUTIONS AND BROKERAGE FIRMS MUST FOLLOW IN RELATION TO AUTHORIZATION REQUESTS MADE TO BANCO DE MÉXICO THROUGH THE ELECTRONIC ATTENTION MODULE

Given that operating issues some had initially faced when they began using the system were overcome, in order to encourage use of the Electronic Attention Module (EAM) by multiple banking institutions and brokerage firms, it was established that as of September 1st, 2009 Banco de México would only respond to requests sent to it through EAM.¹⁰

RULES THAT INVESTMENT COMPANIES SPECIALIZING IN RETIREMENT FUNDS MUST FOLLOW IN RELATION TO DERIVATIVE TRANSACTIONS

The rules were updated in order to broaden the range of underlying assets companies can include in derivative transactions, based on diverse modifications made by the National Savings and Retirement System Commission (CONSAR) to general rules establishing the investment regime these intermediaries must adhere to.

Assets underlying the shares will consist of a group or basket of shares or securities referenced to shares that trade on a stock exchange pursuant to the previously mentioned provisions issued by CONSAR.¹¹

DEBT TRANSACTIONS

Modifications were made to Circulars 2019/95 and 1/2006 in order to clarify the regime applicable to the acceptance of bills of exchange in local or foreign currency or by banks.

It was established that banks could accept bills of exchange in local or foreign currency when:

- i) They have previously received their amount or the drawer has secured a loan or credit line to cover it;
- ii) They are drawn by individuals or corporations other than the institution that accepts them, either at the drawer's request or whoever he appoints;
- iii) They are drawn for a period of more than one banking day; and iv) They are negotiable.¹²

BROKERAGE FIRMS

Circular 115/2002 was modified at the request of The Mexican Association of Securities Intermediaries, in order to make diverse precisions to provisions applicable to loans brokerage firms grant their clients to purchase shares as well as guarantees granted for such purposes. The aim of the change is to clarify that it is not necessary for brokerage firms to sell shares, securities or mutual fund stock pledged by the borrower.¹³

PAYMENT SYSTEMS

A. Simplified File Accounts

Modifications were made to Circulars 2019/95 and 1/2006 in order to establish the characteristics of a new demand deposit account. Opening one requires the compilation of a simplified file in accordance with paragraph 3 of the 14th provision of "General provisions referred to in article 115 of the Law on Credit Institutions" issued by SHCP.

It was established that the accounts in question could not receive deposits equivalent to more than two thousand UDIS in the space of one calendar month and that accountholders could transfer funds using their cellular phones, among other transfer media.

Finally it was established that institutions should not differentiate between the delivery time of debit instructions when the accounts are at the same bank or at different banks. Likewise, once the accounts have been credited, notifications sent to accountholders should take place within the same timeframe as those sent to accountholders at other banks.¹⁴

B. Mobile accounts

In response to requests from diverse banks and cooperation between financial authorities, in order to broaden the range of money deposit accounts offered by banks, especially through agents, modifications were made to Circulars 2019/95 and 1/2006. The aim of this was to substitute simplified file accounts or mobile accounts where cash, cheques and electronic fund transfers can be deposited and withdrawn through cash withdrawals and electronic fund transfers based on cell phone instructions (the phone number is linked to the account).

Depending on how banks compile the file, these accounts and the sum of the amounts deposited and withdrawn during the course of one calendar month can be of three types:

- a) Unlimited mobile account: The account file is compiled in accordance with provision 4 of "General provisions referred to in article 115 of the Law on Credit Institutions" issued by the SCHP, which is not subject to restrictions on the maximum amount of deposits and withdrawals.
- b) Low risk mobile account: The account file is compiled in accordance with provision 14, paragraphs one and two, of the aforementioned Provisions. Banks must establish the maximum amount of the cash deposits and withdrawals that can take place during the course of one calendar month.
- c) Low transaction volume mobile account: The account file is compiled in accordance with provision 14, paragraph three, of the aforementioned Provisions. The maximum amount of deposits that may be received in the course of one calendar month will be equivalent in local currency to the amount in UDIs provided for in paragraph three of the aforementioned

provision.

Regarding this, it was established that no fees may be charged on mobile accounts regardless of how they are received.¹⁵

C. Deposit account direct debits

“Rules for direct debits of bank deposit accounts” were issued in order to establish the procedure and requisites that must be met to object to charges by banks related to direct debits for goods or services purchases as well as the time it takes for client authorizations to be cancelled.

Likewise, fees may not be charged for processing and resolving objections that proceed or for cancelling a direct debit.¹⁶

PROVISIONS RELATED TO THE OPERATING RULES OF THE RECIPROCAL PAYMENTS AND LOANS AGREEMENT BETWEEN BANCO DE MÉXICO AND CENTRAL BANKS OF OTHER MEMBERS OF THE LATIN AMERICAN INTEGRATION ASSOCIATION (ALADI) AND THE DOMINICAN REPUBLIC

Banco de México made diverse modifications to the Operating Rules of the Agreement on Reciprocal Payments and Loans signed by Banco de México and the central banks of other ALADI members and the Dominican Republic (Circular 2031/97), in order to periodically update the list of institutions authorized to operate under said agreement.¹⁷

I.4 Provisions issued under the Financial Service Transparency and Regulation Law

A. Fees

Considering the information generated in the registration of fees, general provisions were issued in relation to how banks charge them so that the way in which they are set as well as respective mechanisms for charging them are clear and transparent and so that banks only charge fees linked to services that have effectively been rendered, transactions that have taken place or client acts.

Also, charging fees on overdrafts or attempts to overdraw on loans or revolving financing associated with cards was prohibited as well as personal liquidity loans with no real guarantee, among others.¹⁸

Furthermore, in order to continue promoting best practices in relation to fee charging associated with ATM transactions and services as well as protect the interests of the public by limiting fees determined on the basis of dubious transparency or which prevent competition between banks, modifications were made to the aforementioned provisions to make transactions at other or

proprietary ATMs more transparent.¹⁹

B. Total Annual Cost (TAC)

In order to increase the Benefits of TAC new rules were issued to facilitate the interpretation of the indicator to promote a more uniform way in which it is presented in advertising, contracts, account statements, and especially credit cards. For this purpose the regulation provides, among other aspects, for:

- a) The use of an average interest rate at which loans of a specific product will be granted where products to be sold for the first time are concerned, and a weighted average interest rate in the case of products that are already in the market;
- b) Additional assumptions for calculating the TAC with respect to revolving credit lines or those associated with credit cards, and
- c) Characteristics of information and legends in relation to said indicator.²⁰

II. AMENDMENTS TO DIVERSE FINANCIAL LAWS

DECREE that amends and adds articles 20, 26, 60, 61 and 68 of the Law for the Regulation of Credit Information Companies (January 20th, 2009)

Users must preserve documents that accredit the existence of a contractual relationship and past due loan portfolio delinquencies.

The obligation of users to provide credit information companies with information about the total payment of clients' debt and the elimination of the corresponding prevention or observation codes in order to benefit clients by reflecting compliance with their obligations in their file.

Furthermore, in order to protect client security in no case may users employ information that is contained in the database for work purposes unless there is a legal resolution that permits it. Thus sanctions are added to Financial Entities, Commercial Companies and Sofomes E.N.R. that breach this regulation.

DECREE adding section VI Bis to article 104 of the Securities Market Act (May 6th 2009)

The obligation of issuers to present periodical reports to the National Banking and Securities Commission (CNBV) on their derivative positions is included as well as possible financial situation contingencies in order to avoid issues of variant information among issuers and clients with respect to product risk and the quality of the portfolios they offer.

DECREE to amend, add and repeal diverse provisions of the Law on Credit Institutions, the Financial Services Transparency and Regulation Law, and the Law for the Protection and Defense of Financial Service Users (June 25th, 2009)

Law on Credit Institutions

- The obligation of banks to take the necessary steps for clients to terminate adhesion contracts with respect to lending and borrowing transactions when they so wish.
- Banks must have guidelines and policies to determine the investment objective in accordance with each client's profile.

The Financial Service Transparency and Regulation Law

- Banco de México is empowered to regulate the minimum payment on credit card loans so there are no negative amortizations and debts are met within a reasonable period of time.
- Banco de México is empowered to regulate advance payments on revolving loans.
- Granters of loans or financing associated with credit cards must, among other things: i) agree on one maximum ordinary and maximum interest rate; ii) charge interest only on daily unpaid balances within the account statement calculation period, and iii) undertake an analysis of the requester's solvency.
- With respect to loans or revolving loans associated with a credit card, banks may only raise the credit limit in the case of clients who fulfill their credit commitments and accept their offer.
- No fee may be charged in relation to an overdraft or an attempt to overdraw on loans or revolving loans associated with a credit card or personal liquidity loans with no real guarantee.
- A grace period of 10 days is granted to cancel adhesion contracts before any fee is charged with the exception of mortgage backed loans or when the financial product has been drawn.
- Additional credit cardholders may not be solidary debtors of the cardholder.

Law for the Protection and Defense of Financial Service Users

The powers of the National Commission for the Protection and Defense of Financial Service Users (CONDUSEF) are increased by transferring to it those corresponding to the CNBV in the Financial Services Transparency and

Regulation Law, and so it is empowered to issue regulations in the area of:

- Activities stemming from healthy practices with respect to the offer and sale of financial transactions and services.
- The procedure for the termination of lending and borrowing transactions.
- The guidelines and content of advertising related to lending, borrowing and service transactions.
- Requisites that adhesion contracts, account statements and transaction receipts used by financial entities must meet.

CONDUSEF will also oversee the financial entities and may impose sanctions when the Financial Services Transparency and Regulation Law or its provisions in the aforementioned areas are breached. Such sanctions must be made public.

Furthermore, the amount of the disputes in which CONDUSEF may protect and represent financial service users increases. In the case of disputes with financial institutions the amount increases to three million UDIs and in the case of insurance transactions up to six million UDIs.

National Banking and Securities Commission Law

- In the transitory sixth article of the Decree dated June 25 section XXXXVII of article 4 was repealed which empowered the CNBV to regulate adhesion contracts, advertising and account statements used by the financial entities regulated by the Financial Services Transparency and Regulation Law in order to align amendments to the CONDUSEF Law which among other things confer such attributes on it.

DECREE issuing the Law Regulating Savings and Loan Cooperatives' Activities, and diverse provisions of the General Law on Cooperatives, the Law on Popular Credit and Savings and the National Banking and Securities Commission Law and the Law on Credit Institutions are amended, added to and repealed (August 13, 2009)

Popular Savings and Credit Law

- The regulation applicable to savings and loans cooperatives is eliminated from this law due to the issuance of the Law Regulating Savings and Loan Cooperatives' Activities, and so the former only currently regulates popular financial companies and their federations, community financial companies and rural financing entities.
- Modifications and precisions are made to the CNBV's powers to ensure the sector functions correctly and to drive its regularization.

- The powers of the Savings Protection Committee are broadened in order to prevent bank insolvency or bankruptcy.
- The concept of community financial companies, whose social purpose is to support to development of rural sector production activities to help rural communities was incorporated.
- The Protection Fund scheme is modified and, among other provisions, the creation of a Savings Protection Committee is provided for with the amount of protection for public savings increasing to 25,000 UDIs in the case of individuals or corporations independently of the number of transactions they make when a popular financial company enters into liquidation, is dissolved, or goes bankrupt.
- Among other entities the creation of the Oversight committee is provided for which is the State body entrusted with the auxiliary supervision of popular financial companies.

Law Regulating the Activities of Savings and Loan Cooperatives

- The activities of savings and loan cooperatives are regulated, in particular, the capture of funds or monetary resources and their placement through loans, credits or other transactions undertaken by savings and loan cooperatives with their partners.
- The creation of a public trust by the Federal Government through the SHCP called “Auxiliary Supervision Trust for Savings and Loan Cooperatives and Saver Protection” was provided for in which Savings and Loan Cooperatives with Operating Levels I to IV must participate. In order to fulfill its purposes the trust is supported by a Technical Committee, an Auxiliary Supervisory Committee and a Savings Protection Cooperative Committee.
- Powers are conferred on the CNBV to authorize, regulate, supervise and sanction companies whose operating level is under supervision.
- Savings and loan cooperatives are classified into four operating levels in accordance with the amount of their assets with respect to which CNBV will issue regulations.
- Only cooperatives with assets equal to or higher than the equivalent of a 2’500,000 UDIs in local currency will need authorization to operate or continue operating.

Law on Credit Institutions

Sections V and VI are added to article 103 in order to bring the law into line with the new General Law on Cooperatives.

As a result savings and loan cooperatives are included in the list of persons that can capture resources from the public.

Furthermore, associations and companies are included in the list as well as groups of individuals that meet certain requirements so they can capture resources exclusively from their associates, partners or members, respectively, for placement among them.

National Banking and Securities Commission Law

- It was amended in order to incorporate within CNBV powers, savings and loans companies that operate in the social sector.
- Furthermore, the definition of financial entities that are members of the Mexican financial system was included in relation to bound entities, consequently the Commission exercises its functions in relation to entities that make up the traditional financial system (which regulated multiple purpose financial companies, popular financial companies, community financial companies and rural financing organizations are included in) and also with respect to those of the social sector which comprise savings and loan cooperatives.

¹ Circulars 5/2009 and 6/2009, directed at banks dated March 5, 2009.

² Circular 14/2009, directed at banks dated June 5, 2009.

³ Circular 8/2009, directed at banks dated April 15, 2009.

⁴ Circulars 9/2009 and 10/2009, directed at multiple banks, dated April 17, 2009 and April 22nd, 2009, respectively.

⁵ Resolution that modifies the Provisions applicable to the determination of the exchange rate for settling foreign currency denominated obligations payable in the Mexican Republic published in the Official Federal Gazette on November 10, 2009.

⁶ Circular 2/2009, directed at banks, brokerage firms, mutual funds, mutual funds specializing in retirement funds, dated February 9, 2009.

⁷ Circulars 11/2009 and 15/2009, directed at banks, brokerage firms, mutual funds, mutual funds specializing in retirement funds and Financiera Rural, dated May 8, 2009 and June 15, 2009, respectively.

⁸ Circular 19/2009, directed at banks, brokerage firms, mutual funds, mutual funds specializing in retirement funds and Financiera Rural, dated August 31, 2009.

⁹ Circular 20/2009, directed at banks, brokerage firms, mutual funds, mutual funds specializing in retirement funds and Financiera Rural, dated August 31, 2009.

¹⁰ Circular 12/2009, directed at multiple banking institutions and brokerage firms dated May 28th, 2009.

¹¹ Circular 25/2009, directed at mutual funds specializing in retirement funds dated October 28, 2009.

¹² Circulars 30/2009 and 1/2006 Bis 29, directed at multiple banking institutions and development banks, respectively, dated December 16, 2009.

- ¹³ Circular 31/2009, directed at brokerage firms dated December 17, 2009.
- ¹⁴ Circulars 16/2009 and 1/2006 Bis 26, directed at multiple banking institutions and development banks, respectively, dated June 26, 2009.
- ¹⁵ Circulars 26/2009 and 1/2006 Bis 28, directed at multiple banking institutions and development banks, respectively, dated November 3, 2009.
- ¹⁶ Circular 23/2009, directed at banks dated September 18th, 2009.
- ¹⁷ Circulars 1/2009, 3/2009, 4/2009, 13/2009, 22/2009 and 28/2009, directed at banks. Issued on February 4 and 20, March 4, June 3, September 3 and December 3, all in 2009, respectively.
- ¹⁸ Circular 17/2009, directed at banks, limited purpose financial companies and regulated multiple purpose financial companies dated July 17, 2009.
- ¹⁹ Circular 24/2009, directed at banks, limited purpose financial companies and regulated multiple purpose financial companies dated October 8, 2009.
- ²⁰ Circular 21/2009, directed at banks, limited purpose financial companies; regulated and non regulated multiple purpose financial companies; popular savings and credit entities; financial entities that act as trust trustees.

that grant credit to the public, as well as companies that habitually grant loans as at September 3rd, 2009