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CIRCULAR 22/2010

Mexico, Federal District, July 22 of 2010.

**TO CREDIT INSTITUTIONS,
LIMITED SCOPE FINANCIAL
INSTITUTIONS AND REGULATED
MULTIPLE PURPOSE FINANCIAL
INSTITUTIONS.**

**REFERENCE: ESTABLISHMENT
OF PROHIBITIONS AND
RESTRICTIONS TO FEES
CHARGED**

The Bank of Mexico, considering that:

- I.** During the last years, the Honorable Congress of the Union has approved several initiatives to amend financial laws, to increase transparency and to encourage competition, as well as to promote the inclusion of the population of lesser resources to the financial system and to protect the users of financial services.

One of the concerns of legislators has been the cost of the fees paid by the clients for using financial services, therefore in such amends the powers of the Bank of Mexico to regulate the fees, the registry and the transparency of the collection was strength.

Therefore, to address such concern, the Bank of Mexico issued on July of 2009 Circular 17/2009 that restricts any fees charged which divert from healthy financial practices.

- II.** On May 25 of 2010 in the Official Gazette of the Federation a Decree was published which amends, among other provisions, the Transparency and Financial Services Arrangement Law.

Such amendment incorporated fundamental principles that financial entities must follow to charge fees and it establishes that the Bank of Mexico must regulate them on the grounds of such principles.

Among the aforesaid principles, the following ones are to noted due to their importance:

- a) Any information received by the public concerning fees must be clear and transparent, expressed in simple and comprehensible language and such information must be contained in the adhesion contracts and be available in the branches trough posters, lists and brochures;

- b) Fees must be charged exclusively for services and transactions effectively carried out;
- c) To eliminate, in issues related to fees, any practices which inhibit or hinder free competition to the benefit of consumers, and
- d) The regulation of fees shall all times seek a just balance between the protection of the rights of the users and the preservations of competitive benefit margins, so that the offer of financial services is not inhibited, since the most expensive service for the public is the one that is not longer available.

III. In addition to the principles indicated above, the Bank of Mexico considers convenient to encourage the observance of the criteria indicated hereunder:

- a) Fees must not be charged for specific services that should be included in the financial product or basic package offered to the client, and
- b) The fees charged for defaulting the terms and conditions agreed, must keep a reasonable proportion in respect to the amount defaulted.

IV. On the grounds of the foregoing principles, the Bank of Mexico has identified inadequate practices in the charge of fees in active and passive transactions and in services, which are the subject of these regulations, and therefore:

- a) For the benefit of the majority of consumers, who mainly use basic financial services, it is prohibited to charge of fees for cash withdrawals, consultation of balances, deposits in the account and payment of credits, both in the counters of the branches as well as in any automatic teller machines operated by the credit institution that carries the account;
- b) So that the fee for not paying a loan in time is not excessive, it is provided that the only charge that may be made is for an amount which shall be the lesser result of: the defaulted amount and the amount which the financial entity has registered with the Bank of Mexico.

The limitation established in the paragraph above, is applied in terms which are similar to the fee for attempting an overdraft in the issuance of a check without funds and to the fee for not maintaining the minimum balance required in a deposit account;

- c) To avoid duplicity in charges for a same event, is prohibited to charge of fees for: i) overdue payments of credits when any interest in arrears are charged during the same term, and ii) for not using the credit card during a calendar year, if during the same period, an annual fee is charged or if a fee for other equivalent concept is charged;
- d) With the purpose of facilitating the cancelation of the registry of real estate property mortgages in the Public Registry, it is prohibited to charge of fees for carrying out the corresponding procedures;

- e) With the purpose that funds transfer transactions and scheduled recurring payments are charged only with a single fee, it is provided that such fee may only be charged by the credit institution where the transaction was originated;
 - f) In case of return of fund transfers and scheduled recurring payments, it is provided that the fee may not exceed the amount that, if any, was charged to the client for issuing them, and
 - g) For purposes of transparency and with the aim that clients may know in a timely fashion the fees they shall have to pay for using automatic teller machines, it is established that the operators must show in their screens a clear message indicating the total cost of the transaction. The foregoing so that the client, without any charge, may have the possibility of not carrying out the transaction.
- V. It is necessary to compile and update the regulation issued by this Central Institution in matters of fees charged and basic accounts, in accordance with the legal amendments mentioned, as well as to continue with the process to eliminate inadequate practices in intermediation, all the foregoing to protect the interest of the public, and to promote a healthy development of the financial system and encourage a sound operation of payment systems.

On the grounds of article 28 of the Political Constitution of the United Mexican States, paragraphs sixth and seventh; 24 and 26 of the Bank of Mexico Law; 4, 4 Bis and 22 of the Transparency and Financial Services Arrangement Law; 48 and 48 Bis 2 of Credit Institutions Law; 8 paragraphs third and sixth, 10; 14 in relation to the 25 section II and 25 Bis 1 section V; 17 section I, and 20 section IV, of the Internal Regulations of the Bank of Mexico that vest the powers to issue provision through the Directorate General of Analysis of the Financial System, the Directorate of Central Bank Regulations and the Directorate of Operation and Payment Systems as well as the Single Article of the Order for the Assignment of Administrative Units of the Bank of Mexico, sections I, III and IV, the Bank of Mexico has decided to issue the following:

GENERAL PROVISIONS WHICH ESTABLISH PROHIBITIONS AND RESTRICTIONS TO FEES CHARGED

1. DEFINITIONS

For purposes of brevity it shall be understood, in singular or in plural, as:

Charge for Account Handling: any charge arising from the management of a deposit account, such as the annuity, monthly payment, management fee, membership fee, handling or any other equivalent concept.

Client:	the person who executes any passive, active or service transactions with any Financial Entity.
Credit:	loans or financings that the Financial Entities grant to the public in general, including the credit lines according to which credit cards are issued, when: i) their amount is less than the equivalent to 900,000 UDIS in domestic currency, or ii) they are credits guaranteed for housing, in any amount to which the Law for Transparency and Promotion of Competition in Secured Loans refers, in both cases, documented in adhesion contracts.
Fee:	any charge, other than interest, that regardless of its type, name or modality, is charged directly or indirectly by a Financial Entity to a Client for carrying out active, passive or service transactions which are documented in adhesion contracts, including the use of Means of Disposal.
Basic Payroll Account:	the banking deposit on demand or in savings, related to the payroll to which article 48 Bis 2 of the Credit Institutions Law refers.
Basic Account for the Public in General:	the banking deposit on demand refereed in article 48 Bis 2 of the Credit Institutions Law.
Issuer:	credit institutions, limited scope financial institutions, or regulated multiple purpose financial institutions who issue, as applicable any debit cards, credit cards, or prepaid banking cards.
Financial Entity:	credit institutions, limited scope financial institutions or regulated multiple purpose financial institutions.
Means of Disposal:	debit cards, credit cards, prepaid bank cards, checks and fund transfer orders, including the service known as payment of services.
Inter-banking Transactions by Automatic teller Machine	transactions arising from cash withdraw and balances inquiries operations, in which the Issuer is not the Operator of the Automatic Teller Machines.
Internal Transactions in Automatic Teller Machines:	transactions arising from cash withdrawal and balance inquiries operations, in which the Issuer is also the Operator of the Automatic Teller Machines.
Operator of Automatic Teller	credit institutions, limited scope financial institutions, and regulated multiple purpose financial institutions, who provide

Machines: services through automatic teller machines.

UDIS: account unit which value in domestic currency is published by the Bank of Mexico in the Official Gazette of the Federation, according to articles Third of the “Decree establishing obligations that may be denominated in Investment Units and amends and adds several provisions of the Federal Tax Code and of the Income Tax Law”, published in the Official Gazette of the Federation on April 1 of 1995 and 20 Ter of the Federal Tax Code.

2. BASIC ACCOUNTS EXEMPTED FROM FEE CHARGED.

2.1 BASIC PAYROLL ACCOUNT

2.11 Credit institutions that receive banking deposits on demand from individuals, are obliged to offer a Basic Payroll Account which is exempt from the payment of any Fees, according to the provisions of articles 48 Bis 2 of the Credit Institutions Law.

The Basic Payroll Account must include as minimum services, the ones listed hereunder:

- a) Opening and maintenance of the account;
- b) Granting of a debit card to the Client and its replacement in case of wear or renewal;
- c) Crediting of funds to the account through any means;
- d) Cash withdrawals in the counters of its branches and in automatic teller machines operated by the credit institution carrying the account;
- e) Payment of goods and services in affiliated business through the debit card;
- f) Queries of the balances in the counters of its branches and in automatic teller machines operated by the credit institutions carrying the account;
- g) Scheduled recurring payment of services to vendors using this payment mechanism;
- h) Closure of the account

Credit institutions may offer additional services related to the Basic Account for the Public in General, which are exempted from the payment of Fees

- 2.12. A Basic Payroll Account may be opened by any individual who holds a job, a position or a commission of any nature, either directly or by request from his employer.

Basic Payroll Accounts may also be opened by any individual to receive the payments of his pension, either directly or by request from whoever is in charge of paying such pension.

- 2.13. The Basic Payroll Account shall not require a minimum amount to be opened, nor a minimum average monthly balance to be maintained.

- 2.14. In the event that by any circumstance, a Basic Payroll Account does not receive any deposits during six consecutive months, the credit institutions carrying it may change it into a Basic Account for the Public in General, upon previous notice to the respective client of at least thirty calendar days in advance.

In case the credit institution that carries the Basic Payroll Account should decide to change it, it must serve the notice indicated in the foregoing paragraph through: i) a written communication addressed the client's domicile, which may be included in the respective account statement, or ii) automatic teller machines, by posting a clear and notorious message that must appear in the screen when the Client uses it.

2.2 BASIC ACCOUNT FOR THE PUBLIC IN GENERAL

2.21 Credit institutions that receive banking deposits on demand from individuals, are obliged to offer a Basic Account for the Public in General which is exempted from the payment of Fees, according to the provisions of article 48 Bis 2 of the Credit Institutions Law.

The Basic Account for the Public in General must include, as a minimum, the services indicated hereunder:

- a. Opening and maintenance of the account;
- b. The granting of a debit card to the Client and its replacement in case of wear or renewal;
- c. The crediting of funds to the account through any means;
- d. Cash withdrawals in the counters of its branches and in automatic teller machines operated by the credit institution carrying the account;
- e. Payment of goods and services in affiliated business through the debit card; mechanism, and
- f. Queries of balances in the counters of its branches and in automatic teller machines operated by the credit institution carrying the account;

- g. Scheduled recurring payment of services to vendors using this payment mechanism, and
- h. Closure of the account

Credit institutions may offer additional services related to the Basic Account for the Public in General, which are exempted from the payment of Fees.

- 2.22. The Clients may be those individuals who satisfy the requirements established by credit institutions, who may never restrict, amend or invalidate in any manner the Provisions set forth herein.
- 2.23. The Basic Account for the Public in General shall not require a minimum amount to be opened.
- 2.24. Credit institutions may determine the minimum average monthly balance that must be maintained in a Basic Account for the Public in General. Should the aforesaid balance not be maintained during three consecutive months, the credit institution may close the respective account.

Whenever the minimum monthly average balance of the Basic Account for the Public in General has not been maintained in any month, the credit institution must notify the Client that, in case such situation should continue during the next 60 calendar days after the month in question, it may close such account.. Said notice shall be served through: through: i) a written communication addressed the client's domicile, which may be included in the respective account statement, or ii) automatic teller machines, by posting a clear and notorious message that must appear in the screen when the Client uses it.

Whenever the credit institution closes the account, it must return to the Client the funds deposited therein, either through the handing over the cash at the counter of their branches or by making available for him a check drawn in his name, as provided in the respected agreement.

2.3 COMMON PROVISIONS

- 2.31. Credit institutions must disclose in their internet web page the following issues:
 - I. Concerning the Basic Payroll Accounts.
 - a) The minimum services referred under subsection 2.11.;

- b) Any additional services which, if any, are offered in such accounts, and
- c) The cases when the account change set forth under subsection 2.14,. may be carried out.

II. Concerning Basic Accounts for the Public in General.

- a) The minimum services referred under subsection 2.11.;
- b) Any additional services which, if any, are offered in such accounts;
- c) The minimum monthly average balance, and
- d) The procedure to carry out the closing the account in case the minimum monthly average balance is not maintained during three consecutive months, as provided under number 2.24.

2.32. Credit institutions may freely determine the commercial name of the product they offer as provided in number 2 of these Provisions, adding the words “Basic Payroll Product” or “Basic General Product”, as applicable. The foregoing is to the effect of allowing clients to identify and compare products of such kind..

2.33. Credit institutions must assigned standard bank key (CLABE) to each Basic Payroll Account and to each Basic Account for the Public in General.

2.34. Credit institutions must offer the accounts referred under subsections 2.1 and 2.2, at least in the branches and during the time schedules where they offer demand deposit accounts to the public in general.

Each credit institution may restrict the possibility of opening more than one of the aforesaid accounts for one single person.

2.35. It is prohibited for credit institutions to deny the opening of a Basic Payroll Account and a Basic Account for the Public in General, to any individuals who satisfy the requirements set forth in applicable provisions, and in their internal policies generally applicable to their other passive transactions.

2.36 Should the notices provided under subsections 2.14 and 2.24, be made through an automatic teller machine, the credit institution must be able to demonstrate, in an evident manner, that it made known to the client the respective information. In these cases, the terms set forth in such subsections shall run from the time

when the client used the automatic teller machine and the credit institution showed the notice to the client.

3. RESTRICTIONS AND PROHIBITIONS TO CHARGING FEES IN DEPOSIT ACCOUNTS AND OTHER PASSIVE TRANSACTIONS

Credit institutions shall not charge Fees:

- a) Simultaneously, in the same period comprised in the account statement for Charge for Account Handling, and for not maintaining a minimum average balance. The foregoing, in the case of deposit accounts.

In case that a Fee is charged for not maintaining a minimum monthly average balance, such Fee may not exceed the amount which is lesser than: i) the difference between the minimum monthly average balance required and the average balance kept, and ii) the amount that the credit institution determines and registers with the Bank of Mexico, according to the procedure provided in Article 6 of the Transparency and Financial Services Arrangement Law;

- b) Such amount shall be determined using one of several options or formulas for calculation in relation with deposit accounts, unless the Fee charged is the lowest one;
- c) When they establish as a requirement that a deposit account must be opened to make charges related to the payment of any Credit that they have granted, for the following items: account opening, Charge for Account Handling and for not maintaining the minimum average balance;
- d) For overdraft in bank deposit accounts, except when the credit institutions have previously agreed with the Clients the granting of a credit line.

For such purpose, credit institutions must obtain the consent of their Clients, through an autograph signature, in a document which is separate from the deposit account agreement which establishes, the ceiling of the credit line, the applicable interest rate, and, if any, the respective Fee;

- e) For overdraft attempted on banking deposit accounts, except when checks without funds are issued, in which case the Fee may not exceed the amount which is lesser than: i) the difference between the amount of the check and the balance available in the account, and ii) the amount that the credit institution determines and registers with the Bank of Mexico according to the procedure set forth in Article 6 of the Transparency and Financial Services Arrangement Law;

- f) For overdraft attempted on the balance of a prepaid banking card;
- g) For canceling deposit accounts;
- h) For canceling debit cards or prepaid banking cards;
- i) For canceling the electronic banking service;
- j) For cash withdrawals and balance queries in the counters of their branches and in automatic teller machines operated by the credit institutions, when the transactions are carried out by their Clients;
- k) For receiving and crediting funds in the deposit accounts of their Clients, over the counters of their branches and through automatic teller machines of such credit institutions;
- l) For not using prepaid banking cards during a period of 365 calendar days;
- m) To Clients who request from the credit institution where the deposit of their salary, pension and other labor considerations are made, to transfer the total funds deposited therein to another credit institution of their choice, as provided in article 18 of the Transparency and Financial Services Arrangement Law, and
- n) To the person who deposits a check to be credited to his account which is returned or which payment is rejected by the credit institution who must pay it, as provided in article 4 Bis of the Transparency and Financial Services Arrangement Law,

4. RESTRICTIONS AND PROHIBITIONS TO FEES CHARGED IN CREDIT

TRANSACTIONS

Financial Entities may not charge Fees:

- a) Which amount is determine using one or several options or formulas for calculation in respect to Credits, unless the Fee charged is the lowest one;
- b) For the cancelations of one or several credit cards issued according to a credit facility contract nor, if any, for the rescission of the corresponding credit facility contract;
- c) For the reception of the partial or total periodical payment of credits granted by the same Financial Entity, in the counters of their branches, or through its automatic teller machines, of by electronic fund transfers, nor for the scheduled recurring payment;
- d) For late payment of a Credit, for defaulting a payment or any other equivalent concept, when any interests in arrear are collected during the same period;

- e) For defaulting the periodical payment of a Credit, unless the Fee does not exceed an amount which is lesser than: i) the amount of such default, and ii) the amount that the credit institution determines and registers with the Bank of Mexico, according to the procedure set forth in Article 6 of the Transparency and Financial Services Arrangement Law;
- f) For not using the credit card during a calendar year to use the credit line, if during the same period an annual Fee is charged or there is a charge for any other equivalent item;
- g) For the return, for any cause, of checks that have been received as a payment method for any Credit of in respect to which they are creditors;
- h) For late payment, defaulting a payment or any other equivalent item, when for causes attributable to the Financial Entity the later has not credited the payment of any Credit in the terms provided by Circular 22/2008 issued by the Bank of Mexico, which establishes the dates when the payments must be credited, depending on the means used to make them;
- i) For taking any actions required to cancel any liens related to mortgage Credits for the total payment of the debt. The foregoing, besides the payments that the Clients must make for any registry and notary expenses, which if any, correspond to him;
- j) For receiving the payments of Credits granted by other Financial Entities, according to the provisions of article 4 Bis of the Transparency and Financial Services Arrangement Law;
- k) For overdraft or attempted overdraft on credits, loans or revolving financings in respect to a card, as well as in personal credits of liquidity without a collateral on real property, as provided in article 18 Bis 8 of the Transparency and Financial Services Arrangement Law, and
- l) In respect to basic credit cards issued according to the provisions of article 48 Bis 2 of the Credit Institutions Law.

5. RESTRICTIONS TO CHARGING FEES IN FUNDS TRANSFER ORDERS AND SCHEDULE RECURRING PAYMENT

In respect to this kind of transactions:

- a) In no case shall the amount of the Fees be determined in relation with the amount of the fund transfer orders and scheduled recurring payment;
- b) Only the credit institution on which the charge or the deposit transaction, was originated, may charge a Fee, and,
- c) In case any fund transfer order and any schedule recurring payment should be returned, the credit institution who is the issuer may not charge a Fee higher than the one it has charged for originating the transaction.

These restrictions shall only be applicable to transactions originated and settled in national territory.

6. RESTRICTIONS TO FEES CHARGED THROUGH AGENTS

Credit Institutions that execute transactions or render services through agents, shall never determine the amount of the Fees they collect through their agents, on the grounds of the amount of the transaction in question, and therefore, such Fees must be fixed for each type of transaction.

The foregoing does not prevent credit institutions from establishing limitations to the amount of the transactions in question.

7. FEES CHARGED FOR TRANSACTIONS IN AUTOMATIC TELLER MACHINES

- 7.1** The charge of Fees for Inter-banking Transaction by Automatic Teller Machines may only be carried out by the Operators of Automatic Teller Machines, therefore the Issuers may not charge any additional Fee. For such purpose, the Issuers shall charge the respective Fee and shall transfer it to the Operator of the Automatic Teller Machines in question.

Whenever a Financial Entity, directly or indirectly, organizes a corporate entity to provide services through automatic teller machines, it must carry out any necessary actions so that such corporate entity complies with the obligations applicable to the Operators of Automatic Teller Machines mentioned in these Provisions.

Any transactions carried out by the Clients of such Financial Entity in automatic teller machines operated by the aforesaid corporate entity, shall be considered as Internal Transactions in Automatic Teller Machines, for purposes of these Provisions.

- 7.2** Operators of Automatic Teller Machines must show in their screens, after the selection of any service and, before any transaction is authorized, any of the following wordings, as applicable:

- a) If a debit card is being used:

“For this transaction you shall pay a fee of: _____ pesos, including Added Value Tax”,

or,

“No fee shall be charged for this transaction.”

- b) If a credit card is being used:

“For this transaction you shall pay a fee of: _____ pesos, including Added Value Tax”,

or,

“No fee shall be charged for this transaction.”

Additionally, in case that the transaction is a cash withdrawal:

“For the use of this credit line you shall pay a fee of: _____ pesos, including Added Value Tax, to the Issuer of your credit card.”

In all cases, the user must have the chance to cancel the transaction before carrying it out without any cost.

In the case of Internal Transactions in Automatic Teller Machines the screens must only display a text corresponding to the Fee attempted to be charged, either for the use of the automatic teller machine or the use of the credit line. The foregoing, in accordance with the provisions of articles 4 Bis and 17 of the Transparency and Financial Services Arrangement Law.

TRANSITORY PROVISIONS

FIRST. This Circular shall enter into force on July 27 of 2010.

In the aforesaid date the Circular 17/2009 is repealed which circular contains the “General Provisions related to Fee Charges” published in the Official Gazette of the Federation on July 21 of 2009, including its amendments released through Circular 24/2009 published in the Official Gazette of the Federation on October 12 of 2009, and Circular 29/2009 published in the Official Gazette of the Federation on December 11 of 2009 and Circular 14/2010 published in the Official Gazette of the Federation on April 16 of 2010.

Also, in the aforementioned date the “Rules to which credit institutions must be subject in respect to basic payroll accounts and basic accounts for the public in general to which article 48 Bis 2 of the Credit Institutions Law refer”, published in the Official Gazette of the Federation on July 16 of 2007, as well as its amendments, released through the resolution published in the aforesaid Official Gazette of the Federation on November 30 of 2007 and on September 26 of 2008 respectively, all of which are repealed.

SECOND. The provision under numbers 2.14.; 2.24; 2.31.; 4 subsection a), and 7.2, shall enter into force on October 26 of 2010.

THIRD. The provision of number 3, subsection a), second paragraph; 3 subsection e) in respect to attempts of overdraft of checks without funds, as well as for schedule recurring payment, and 4 subsections d) and e, shall enter into force on January 3 of 2011.