

## MEXICO PASSES GROUNDBREAKING FINTECH ACT

On March 1, 2018, the Mexican Congress passed the Financial Institutions Act (*Ley para Regular las Instituciones de Tecnología Financiera*) (the "FinTech Act" or the "Act") for, among others, the regulation of FinTech firms and crypto-currency transactions.

FinTech generally refers to the use of new or developing technology to provide financial services in a more cost-effective, accessible and consumer-friendly way or facilitate the expansion of new or innovative financial products and services. FinTech has the potential to increase efficiency and reduce costs, to improve access to, and delivery of, financial services, to enhance the customer experience and to create markets in new and innovative financial products. It also poses risks, including operational risks and money laundering, cyber-security, customer protection and customer data security and privacy compliance risks. The growth of FinTech and the expansion of non-financial companies into the heavily regulated financial sector has resulted in a growing need for regulators, the FinTech community and the financial services industry, to engage fully with developments in the sphere. The vast majority of financial services legislation and regulatory standards predate the rapid advances in technology and consumer demand for innovations.

The FinTech Act was designed on the principles of financial inclusion, customer protection and competition, and also takes into account anti-money laundering and terrorist financing (AML/CFT) risks associated with these new products and services. The FinTech Act primarily regulates two types of FinTech firms or platforms: (i) crowdfunding companies, which serve as platforms to connect entrepreneurs with investors and fund new ventures on an equity-base, debt-base and royalty-base and (ii) e-money companies, which will render, through digital means, electronic payment services of "fiat currency" or "crypto-currencies."

In addition, following the model implemented in the United Kingdom, the FinTech Act introduces "regulatory sandboxes" to boost the acceleration of FinTech startups. This will allow such startups to render new services or products for a limited time (no greater than two years) in a live and controlled environment.

A notable provision of the Act is the creation of the FinTech Expert Panel (*Grupo de Innovación Financiera*) to be integrated by members of the Ministry of Finance, the Central Bank, the governmental regulators (such as the Banking and Securities Commission and the Bonding and Insurance Commission) and certain

representatives of the private sector. The FinTech Expert Panel is designed as a consultation, advisory and coordination forum to exchange ideas, opinions and knowledge, and promote the sound development of new technologies and the enactment of new regulation.

Following certain Financial Action Task Force (FATF) recommendations, the Act incorporates certain AML/CFT requirements, including the implementation of AML/CFT policies and know-your-customer controls, reporting requirements, the appointment of compliance officers, and the suspension of services provided to individuals or entities blacklisted by the Ministry of Finance. It is expected that the Ministry of Finance will take into account the United Nations Security Council Sanctions List and other sanctions lists published by foreign governments and international organizations for the Ministry's blacklist (*lista de personas bloqueadas*).

In addition, the Anti-Money Laundering Act (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*) enacted in 2012 was amended, to subject all FinTech firms to AML/CFT standards similar to the ones currently required for banks and other non-bank financial institutions.

In the coming months the Mexican Congress, the Ministry of Finance and the relevant regulatory authorities are expected to promulgate implementing regulations, including guidelines and criteria for blacklisting individuals or entities by the Ministry of Finance.

Clifford Chance follows FinTech developments across multiple jurisdictions and, among other FinTech-related briefings, has published briefings providing an overview of the regulation of FinTech products and services in [Europe](#) and [Asia Pacific](#). For further information about our global FinTech practice please click [here](#).

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