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Competition - Mexico

Proposed financial reform and its impact on competition policy

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Author

Lucía Ojeda Cárdenas

On May 8 2013 President Enrique Peña Nieto submitted to Congress a legislative proposal to amend the financial regulatory framework. The overall purpose of the amendment is to provide financial institutions with enough flexibility and incentives to grant more credit and facilitate better conditions for users.

The amendment seeks to encourage greater access to cheaper credit by focusing on four main objectives:

- to promote credit through the Development Bank;
- to increase competition in the financial sector;
- to extend the scope of credit granted by private financial institutions; and
- to strengthen the overall credibility of the financial sector.

Although the amendment has been announced mainly to address the financial sector, it would also have an effect on competition policy. In particular, the amendment provides for the Federal Competition Commission to monitor the financial sector and evaluate its competition conditions with the aim of making recommendations to financial authorities from a competition perspective. Moreover, the amendment seeks to reduce barriers for small companies to enter and maintain themselves in the stock market. It further seeks to provide greater opportunities for users to choose and move their financial products more freely to the financial institutions of their choice that can offer them better conditions.

The Federal Competition Commission has issued an opinion addressing some of the above aspects. In sum, the commission considers that the amendment would improve competition within the financial sector by:

- granting greater powers to the National Commission for the Defence of Users of Financial Services (CONDUSEF) to regulate agreements and market practices;
- establishing a financial institutions' bureau managed by CONDUSEF;
- prohibiting tied sales - that is, preventing economic agents from taking advantage of their dominance in one market in order to impose conditions in another market where the user would have other choices;(1)
- allowing users to transfer their agreements between economic agents with lower transfer costs;
- facilitating portability of credit between financial institutions;
- creating a universal credit bureau operated by the federal government to reduce asymmetric information between economic agents;
- allowing foreign investment in insurance institutions, bonding institutions, houses of change and general deposit stores, among other things, without restrictions;(2)
- strengthening the regulation and incentives for financial institutions to offer a greater amount of credit with better conditions for users;
- ordering the commission to investigate competition conditions in the financial sector and issue corresponding recommendations;
- allowing the Institute for the Protection of Bank Savings to request the commission's prompt intervention in merger cases regarding transfers of assets and liabilities of institutions in liquidation;
- empowering financial authorities to request the commission's intervention; and
- guaranteeing access to essential inputs in the financial sector, in line with the recently approved constitutional amendment on competition.

For further information on this topic please contact Lucia Ojeda Cardenas at SAI Law &

Economics by telephone (+52 55 59 85 6618), fax (+52 55 59 85 6628) or email (loc@sai.com.mx).

Endnotes

(1) Tied sales are already considered a relative monopolistic practice under Article 10 of the Federal Law on Economic Competition.

(2) Although international treaties such as the North American Free Trade Agreement have already deeply liberalised foreign investment in the sector, the amendment confirms this allowance by including it in national legislation.