

Provisions applicable to electronic payment fund institutions in terms of the Law to Regulate Financial Technology Institutions

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On the 28th of January, 2021, the Provisions applicable to electronic payment fund companies operating under the Law Regulating Financial Technology Institutions (the “Provisions”) were published in the Federal Official Gazette (Diario Oficial de la Federación). The Provisions relate to the use of technological means in order for electronic payment fund companies to provide their services, and the use of advanced electronic signatures or any other form of authentication in order to grant clients access to their Technological Infrastructure, acquire their products and services or carry out transactions.

Said Provisions dictate that electronic payment fund companies must acquire the express consent of their clients every time the carrying out of operations or the provision of services through electronic means is agreed, said consent must also be authenticated through a client identifier and an authentication factor, as described in the Provisions. Likewise, they regulate the essential elements required when entering into an agreement, the obligations of the company before the client and the rights of the latter in relation to the former, both at the moment in which they enter into an agreement and throughout the duration of the aforementioned including a wide range of information rights and the possibility of bilateral modification of the agreement.

The Provisions also establish the parameters that must be met in order to carry out client authentication, including requirements for the creation of passwords, questionnaires, information contained, received or generated through electronic devices or means that can only be accessed by the client and information resulting from the characteristics of the former. As a result, the Provisions also establish considerable security requirements for the information used in the technological means employed in the relevant operations or provision of services.

Additionally, said Provisions also establish extensive requirements relating to “Technological Infrastructure” that must be taken into account in order to guarantee the proper functioning of the technological infrastructure and to guarantee the security of the information contained therein, including the necessity for periodic system checks and special provisions regarding electronic payment fund

companies affiliated to financial entities supervised by the National Securities and Banking Commission (Comisión Nacional Bancaria y de Valores and, subsequently, "CNBV").

Also, the Provisions also establish that electronic payment fund companies must maintain operative continuity, carrying out the appropriate planning and personnel designations in terms of the Provisions as well as presenting the necessary reports to the Mexican Central Bank and the CNBV in case of a relevant security incident with regards to the information.

Finally, we must mention that the Provisions establish special conditions with regards to the contracting of services with third parties. Said conditions include additional requirements for planning, documentation, prudential standards and even Mexican Central Bank and CNBV issued authorizations pertaining to different characteristics that the third parties as well as the electronic payment fund companies must meet.

In addition to the aforementioned, it is established that electronic payment fund companies must hire the services of an independent third party, or the company through which said independent third party provides its services, in order to evaluate the level of compliance with the information security requirements, the use of instruction channels and operative continuity.

The Provisions will come into effect 90 calendar days following their publication in the Federal Official Gazette.

For any additional information, do not hesitate to contact our expert team, who can be of assistance.

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