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**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM - SESSION I:
COMPETITION, FINTECHS, AND OPEN BANKING**

- Contribution from El Salvador -

9-10 October 2024

This attached document from El Salvador is circulated to the Latin American and Caribbean Competition Forum (LACCF) FOR DISCUSSION under Session I at its forthcoming meeting to be held on 9-10 October 2024 in Santo Domingo, Dominican Republic.

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Session I: Competition, Fintechs and Open Banking

- Contribution from El Salvador -

Advocating for competition advocacy with respect to financial technologies in El Salvador

1. In a context in which diverse public policy matters converge, competition authorities face the challenge of fulfilling their mandate in dynamic markets, without undermining technical analysis standards on the one hand and the incentives to compete or the benefits derived from innovation on the other.
2. In the last decade, international networks and competition authorities have gained more experience in understanding their role in digital markets, from technical capacity building to experience sharing, competition advocacy or enforcement. The products usually include guides, market analyses, reforms to competition regulations that have explicitly incorporated a digital component (Anti-monopoly Law of the People's Republic of China, for example), regulations for digital markets (such as the Digital Markets Act) or rules for the platforms that operate in them, enforcement actions and economic concentration analyses.
3. The United Nations Conference on Trade and Development (UNCTAD) identified that there is no unanimity on the ideal type of regulatory tool or framework to address competition considerations with respect to digital platforms. For example, the most recent work of the Superintendence of Competition of El Salvador (SC) comprises competition advocacy activity that includes monitoring digital platforms in home delivery services (2020), an exploratory report on online shopping abroad (postal services and digital platforms) issued in 2024 and multiple opinions on regulatory frameworks linked to different aspects of the digital economy, some of which are mentioned in this contribution. To date, however, no analyses of economic concentrations or investigations into anti-competitive practices in digital markets have been conducted.
4. The impact of technological evolution and digital transformation on the financial sector is recognised internationally. This favours business sandboxes and innovative entrants and often motivates the public administration to identify opportunities to work in a co-ordinated manner in support of a financial services regulation that is aware of how it overlaps with other public policy objectives, such as competition, unfair competition, consumer protection, data privacy, financial stability, neutrality and efficiency.¹
5. UNCTAD recommends that competition authorities in developing countries strengthen their understanding of the dynamics of digital markets in the context of their jurisdiction, in conjunction with other public institutions and other relevant actors at both the national and international levels.² In line with this, the SC has established co-ordination

¹ Frost, J. et al. (2021), "Fintech and the digital transformation of financial services: implications for market structure and public policy", *BIS Papers*, No. 117, Bank for International Settlements, www.bis.org/publ/bppdf/bispap117.pdf.

² UNCTAD (2023), *Op cit.*

mechanisms with regulatory entities to prevent and combat anti-competitive practices.³ These include agreements with the Central Reserve Bank (BCR in Spanish) and the Superintendence of the Financial System (SSF in Spanish), which are the regulatory and supervisory authorities for the Salvadoran financial system.

1. Financial Inclusion and National Fintech Strategy

6. The Salvadoran financial system is regulated by the BCR, through the Standards Committee, and supervised by the SSF. In accordance with the Law on the Supervision and Regulation of Financial System of 2011, the national financial system is understood to include 1) deposit-taking and credit institutions; 2) payment systems; 3) pensions; 4) insurance and bonds; 5) stock markets; and 6) other entities, such as external auditors and experts, among others.⁴

7. El Salvador's Competition Law applies to all markets, including regulated markets, and the SC has taken the opportunity to implement an annual work plan within the framework of its agreement with the BCR to ensure co-ordination across institutions and to participate in the activities organised by each party. Over the years, this has enabled it to participate in outreach activities and presentations to learn about advances in and/or analyses of Bitcoin, financial inclusion, fintech, financial digitisation, electronic money (e-money) and innovation hubs, among other topics of interest under the competence of each institution. Through such activities, not only has the SC strengthened its understanding of the evolution of the financial sector in El Salvador and discussions on competition that are relevant to it, but it has also followed the recommendations made by UNCTAD.

8. Financial inclusion is a relevant issue on El Salvador's public agenda because of its impact on reducing economic inequality and vulnerability. The SC has brought its view of competition to the financial sector through its ability to issue an opinion, upon request or ex officio, on draft laws, ordinances or regulations in which competition could be limited, restricted or significantly impeded.⁵ From the SC's perspective, banking systems with higher levels of competition lead to a more efficient market, with better prices and a variety of products and services that meet users' different needs.⁶

9. The Law to Facilitate Financial Inclusion, which was passed in 2015, includes provisions on e-money and simplified requirements for savings accounts.⁷ In its opinion⁸ on this law, the SC highlighted the relevance of developing a specific regulatory framework to ensure the interoperability of applications and networks, and to address issues such as access barriers in the mobile financial services market, interconnection rules, tariff discrimination and other elements relevant to promoting competition.

10. The National Council for Financial Inclusion and Education was created in 2019. In 2021, it issued the National Financial Inclusion Policy, whose digitisation and financial

³ Article 13, paragraph "I" of the Competition Law, available at: https://www.sc.gob.sv/index.php/sala_multimedia/ley-de-competencia-reglamento-y-glosario/.

⁴ National Office of Financial Innovation (2023), *Ibid*.

⁵ Article 14, paragraph "I" of the Competition Law.

⁶ SC-017-O/ON/R-2022 /Res.:31/05/2022, available at: <https://www.sc.gob.sv/index.php/project/opinion-normativa-proyecto-reforma-ley-para-facilitar-inclusion-financiera-sc-017-o-on-r-2022/>.

⁷ National Office of Financial Innovation (2023), *Op cit*.

⁸ SC-033-S/ON/NR-2014/ Res.:06/05/2015, available at: <https://www.sc.gob.sv/index.php/project/opinion-en-relacion-proyecto-de-ley-para-facilitar-la-inclusion-financiera-sc-033-s-on-nr-2014/>.

innovation pillar includes aspects to facilitate financial inclusion through the use of digital technologies in the regulatory, normative and supervisory framework that promote the use of digital financial services and support the emergence of innovative financial products.⁹ Also in 2021, the BCR and the SSF signed an inter-institutional agreement to operate a Financial Innovation Office that promoted the National Fintech Strategy in 2023. The Strategy is a public policy that builds on the digitisation and financial innovation pillar contained in the National Financial Inclusion Policy, which dates back to 2021, and is added to a legal framework that includes instruments such as the Bitcoin Law, the Digital Assets Law and the Law to Promote Innovation and Technological Manufacturing.

11. The National Fintech Strategy roadmap comprises eight stages starting with its approval and the enactment of a Fintech Law (not yet approved); stage 2 is the reorganisation of the inter-institutional Financial Innovation Office and the configuration of the financial innovation system; and from this point, the remaining six stages become pillars: 1) regulation; 2) digital policy in public financial entities; 3) research, development and education for innovation; 4) open banking and open finance policy; 5) fintech digital ecosystem and infrastructure; and 6) public policies for digital transformation.¹⁰ The most recent results of the National Fintech Strategy include the announcement in 2023 that these companies will be incorporated into the public interbank transfer and payment system (Transfer365), which initially comprised only banks and financial cooperatives.¹¹

12. In 2022, the SC issued an opinion on a proposed reform to the Law to Facilitate Financial Inclusion,¹² which promoted the use of digital financial technology as an enabler of access to financial services. The SC did not note any restrictions to competition. It took the opportunity to state that enabling the provision of innovative financial services and expanding access to more clients, as well as creating a level playing field for the sector's institutions to provide these services, constitutes an enabling environment to foster financial inclusion and for operators to compete for new clients, as long as the creation of these spaces is accompanied by rules and effective supervision of the financial system.

13. With an appropriate regulatory framework in place, fintech provides an opportunity to streamline financial services and make them more competitive and inclusive with regard to segments that are less accessible. It does, however, come with technological risks, such as increased exposure to cybersecurity threats and potential systemic risks.¹³ The potential of fintechs in terms of financial inclusion is widely recognised, as they offer affordable and accessible financial services for the vast majority of the population, especially with regard to loans and payments, which facilitate operations for businesses such as small and medium-sized enterprises.¹⁴

⁹ National Office of Financial Innovation (2023), *Op cit.*

¹⁰ *Ibid.* Page 49.

¹¹ El Mundo (2023), "BCR integrará a las fintechs al sistema de pagos Transfer365" [BCR to integrate fintechs into Transfer365 payment system], 5 December 2023, <https://diario.elmundo.sv/economia/bcr-integrara-a-las-fintechs-al-sistema-de-pagos-transfer365>. <https://diario.elmundo.sv/economia/bcr-integrara-a-las-fintechs-al-sistema-de-pagos-transfer365>

¹² SC-017-O/ON/R-2022 /Res.:31/05/2022, *Ibid.*

¹³ Cevik, Serhan, "The dark side of the moon? Fintech and financial stability", *International Monetary Fund Working Paper*, WP/23/253.

¹⁴ Ramos Muñoz, D. et al. (2019), *Competition Issues in the Area of Financial Technology (Fintech)*, Study Presentation, The European Parliament, [www.europarl.europa.eu/RegData/etudes/IDAN/2019/631061/IPOL_IDA\(2019\)631061_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2019/631061/IPOL_IDA(2019)631061_EN.pdf).

2. Fintech in El Salvador

14. Globally, in the last decade fintechs have resulted in more convenient, greater access to financial services. Yet in several jurisdictions, it was not until the COVID-19 pandemic that digital connectivity took off, significantly increasing the use of digital payment methods and digital commerce, among others.¹⁵ In El Salvador, the pandemic led to a rapid increase in the use of various digital technologies. For example, fintech companies created new products, services and business models that were not regulated in financial market regulations, which guarantee a fair, efficient and transparent market, a stable financial system and the protection of financial consumers.¹⁶

15. Although Fintechs are less prevalent than traditional financial institutions, they are expanding rapidly, as indicated by the total value of investments in fintech worldwide, which has increased from USD 1 billion in 2008 to USD 247 billion through the first half of 2023, generating new opportunities and challenges in the financial services sector.¹⁷ According to data from the Inter American Development Bank (IDB), between 2017 and 2023, the fintech ecosystem in Latin America and the Caribbean grew by 340%. With regard to the distribution of these companies, 8.1% are located in a group of 15 countries,¹⁸ which includes El Salvador, where 27 fintechs contribute 0.88% of the regional total.¹⁹

16. While there is no standard classification of fintech services, they are generally understood to include: 1) banking (deposits and loans); 2) payments, transfers and foreign exchange (*Forex*); 3) digital currencies; 4) wealth and asset management; 5) personal finance; 6) insurtech; and 7) enabling technologies and infrastructure.²⁰ El Salvador stands out for its cryptoassets regulation, which is still a pressing challenge for most jurisdictions in Latin America and the Caribbean.²¹ With regard to the fintech ecosystem, the BCR and the SSF consider that controlled development is needed.²²

17. The most developed fintech segments or verticals in El Salvador are payment solutions and alternative financing and insurance platforms (insurtech). Fintech activity is also evolving in personal finance management, corporate finance management, financial asset trading and the stock market, and technology companies for financial institutions.²³ While fintech favours the financial inclusion of unbanked groups and a wider offer, the degree of service penetration depends on access to technology and digital skills, as well as user confidence in digitisation.²⁴

¹⁵ Bank for International Settlements (2021), *Op cit.*

¹⁶ National Office of Financial Innovation (BCR-SSF) (2023), *Estrategia Nacional Fintech [National Fintech Strategy]*, www.bcr.gob.sv/documental/public/docs/a052885d2370e01cb715112dde621b06.pdf

¹⁷ Cevik, S. (2023), *Op cit.*

¹⁸ Panama, The Bahamas, Paraguay, El Salvador, Bolivia, Jamaica, Honduras, Venezuela, Belize, Barbados, Nicaragua, Guyana, Haiti, Trinidad and Tobago and Suriname

¹⁹ Inter American Development Bank (IDB) (2024), *Fintech en América Latina y el Caribe: un ecosistema consolidado con potencial para aportar a la inclusión financiera regional [Fintech in Latin America and the Caribbean: A consolidated ecosystem with the potential to contribute to regional financial inclusion]*, <https://publications.iadb.org/es/publications/spanish/viewer/Fintech-en-America-Latina-y-el-Caribe-un-ecosistema-consolidado-con-potencial-para-aportar-a-la-inclusion-fianciera-regional.pdf>.

²⁰ European Parliament (2019), *Op cit.*

²¹ IDB (2024), *Op cit.*

²² National Office of Financial Innovation (2023), *Op cit.*

²³ *Ibid.*

²⁴ European Parliament (2019), *Op cit.*

18. The regulatory entity and the supervisory entity of the financial system are rising to the challenge of adapting to incorporate the necessary regulations. Meanwhile, the SC is using its advocacy powers and drawing on the respective inter-institutional co-ordination mechanisms to understand the most recent developments in the financial services market and provide a timely competition perspective on them.