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The opinions expressed and arguments employed herein do not necessarily reflect the official views of the Organisation or the governments of its member countries.

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Session I: Competition, Fintechs, and Open Banking¹

This paper examines the recent evolution of competition in the financial services sector in Latin America and the Caribbean (LAC), focusing on the rise of Fintechs, the emergence of a pro-competitive regulatory framework and the role of Open Banking. By Fintechs, this paper understands companies that focus on the intersection between technology and financial services, ranging from back-office services to blockchain. Over the last decade, the financial sector in LAC has undergone profound changes, including the entry of new players, the emergence of new products, and the reconfiguration of market boundaries. These developments have led to competitive gains and the provision of better, more accessible, customised, and inclusive financial services to consumers, which should be considered when balanced against potential financial risks. Regulatory advances have played a relevant role at various stages of this process, sometimes laying the groundwork, sometimes welcoming new technologies and models driven by financial digitalisation, and more recently, even leading and fostering disruptive innovations. Finally, the paper identifies Open Banking as key component of this pro-competitive agenda.

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1 Introduction

1. This paper explores the recent evolution of competition in the financial services in Latin American and the Caribbean (LAC), particularly in the context of the rise of Fintechs and the emergence of a pro-competitive regulatory framework, including the development of new forms of regulation such as those related to Open Banking initiatives.

2. A couple of definitions are relevant to clarify the scope of this paper, namely Fintechs and Open Banking.

3. Fintechs, a term derived from the expression "financial technology", can be defined as the "rapidly evolving intersection between innovative technologies and the financial sector, blurring and extending the boundaries of the latter" (Pana & Seager, 2024). In line with this definition, this document uses Fintechs as a term that refers both to the new entrants who have benefited from this synergic combination between technology and finance, as well as to the sector formed by these agents.

4. Fintechs operate in areas such as mobile banking, payments, blockchain, personal finance management, peer-to-peer lending and back-office operations. They enhance financial services by using data and statistical models to screen customers and enable faster and less costly approval of loans and other financial services. As previously discussed by OECD (2020a), they also reduce personnel and branch network needs, offer targeted price discrimination, increase financial inclusion for underserved populations and Small and Medium-sized Enterprises (SMEs), and benefit from a culture of efficient operational design and higher innovation capacity due to the lack of legacy technologies.

5. As for Open Banking¹, it can be defined as "the practice of sharing banking data via standardised and secure interfaces at the request of clients" (OECD, 2023a), which normally involves using application programming interfaces – APIs² (FSB, 2019). The relationship between competition, Fintechs, and Open Banking seems key. Open Banking establishes standards and infrastructure that allow Fintechs to access banks' customer data and develop innovative financial solutions. This helps level the playing field and increases the dynamism and competitiveness of the financial sector.

6. Indeed, this is a central element of a common institutional agenda worldwide, implemented by each country with specificities. It involves regulatory and technological initiatives that enable the financial data of individuals and companies to be shared between different financial service providers, with the data subject's consent. The goal is to increase competition, stimulate innovation, and enable the offer of more accessible services tailored to the needs of each customer.

7. The rapid digitalisation of the financial sector has triggered structural changes, both on the supply side and the demand side, paving the way for the rise of Fintechs and the establishment of a new competitive landscape. While this process initially relied on private agents and the market itself, its developments in each country can only be fully understood in light of regulatory changes that occurred before, during, and after the first waves of market transformations. From a retrospective viewpoint, this paper argues that regulatory changes have prepared the ground for some of these transformations, established normative frameworks to accommodate new agents, services, and business models, and more recently have aimed to deepen these transformations, with Open Banking being the most recent and significant example of this regulatory movement, in order to maximise their benefits for society.

8. The main argument of this paper is that regulators (e.g. competition authorities and regulatory authorities) have been instrumental for the development of Fintechs in LAC countries, and have helped to shape pro-competitive legal frameworks, for instance through competition enforcement and competition advocacy efforts. To develop this argument and address the interplay between competition, Fintechs and Open Banking in LAC, this paper is divided into three sections, in addition to this Introduction and the conclusion. The **second section** takes a market perspective to address the new competition landscape shaped by the process of growing digitalisation of financial services and the rise of Fintechs in LAC. The **third section** presents the emergence of a pro-competitive regulatory framework in LAC, analysing the responses of regulators and antitrust authorities aimed at favouring the conditions for new companies, products, and business models to thrive in the financial sector. Finally, **the fourth section** describes Open Banking initiatives in several LAC countries and discusses correlated sectoral changes towards a possible data-driven competition pattern.

2 Digitalisation, Fintechs and the new competitive landscape for financial services in LAC

9. The rise of digital banking was a crucial development for the financial sector worldwide. Without it, the incursion of Fintechs and its impact on financial services would not be feasible. OECD (2020a) clarified that what the digitalisation of financial services accomplished was the effective lowering of barriers to entry in this sector, barriers that were once considered unsurmountable. This section will provide an overview of that movement in LAC countries.

10. Fintechs are companies whose existence is made viable largely because, though not exclusively, of technology. They came about as costs to establish and manage networks have dramatically decreased over time, and with it the costs of developing new products and services. Fintechs, in that light, found room to enter the market. Of course, that impact was not entirely homogeneous across the globe, and the reality in LAC (and within the region) has peculiarities that are worth highlighting.

11. Technology allowed for a severe reduction in costs in the sector. The cost of physical infrastructure was dramatically reduced. Digital offers changed the market. Having physical branches, with numerous employees ready to take care of clients' needs, or complex telephone lines that could be reached by clients whenever needed, was no longer a must.

12. Technological advances have also brought about significant changes on the demand side, such as increased connectivity and the widespread adoption of mobile devices, which have enhanced opportunities for innovation, market growth, and increased competition. The high adherence to mobile phones in LAC, including by lower-income groups, has been a decisive factor in the rapid digitalisation of the financial sector in the region and has contributed to the expansion and the diversification of the market in a short period of time. Consumers became more accustomed to having services be provided exclusively online - notably given the coming of age of a generation that has more familiarity with technology. OECD numbers confirm this trend. Mobile broadband subscriptions went from 825 million in 2010 to over 4.5 billion in 2017, reaching 82% of all broadband access in 2019 (OECD, 2019). This movement was propelled by the COVID-19 pandemic.³ According to data from the World Bank, numbers in LAC grew from 43% in 2014 to 65% in 2021, regarding consumers who either use mobile money, debit or credit cards; use mobile phones to make payments; or use the internet to pay bills or buy online (World Bank, 2021).

13. Because offers migrated to digital, the relevance of cybersecurity grew exponentially. But given that the cost of technology decreased, it became feasible for smaller players, as well as entrants originating from other sectors to effectively make the necessary investments to both enter and stay in the market.

14. It is also true that the same reduction in costs was available to incumbents, and they did take advantage, even though they faced obstacles related to the legacy of previous strategies and structures. It can overall be said, as noted by the OECD previously, that banking is undergoing a transformation from being based in physical branches to using information technology (IT) and big data, together with highly specialised human capital (OECD, 2020a, p. 7). Notably, we have seen traditional financial institutions

closing several of their physical agencies and instead focusing on digital services - in Brazil, for example, numbers have decreased steadily ever since 2020, and banks have closed over 2 500 of their branches, according to the Brazilian Central Bank.⁴

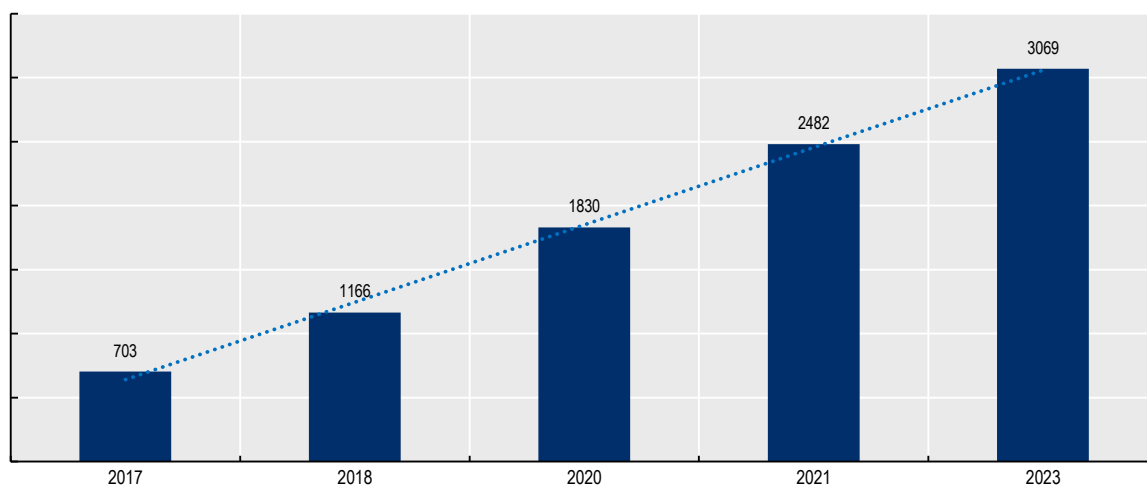
15. On one hand, these changes illustrate that banks have also been able to capitalise on the reduction of barriers brought about by technological advances, streamlining costs and generating efficiencies. On the other hand, the scale of these changes reflects the significant efforts required for them to adapt to a new competitive landscape. The fact that they are organised as large conglomerates, which expanded during the analogue era, means they must deal with a legacy that incurs adaptation costs. This challenge has led some traditional institutions to, alongside these structural changes, invest in creating their own tech arms, either organically or through fintech acquisitions, to gain agility and flexibility in the disruptive digitalisation process.

16. Fintechs developed a different strategy and, in several regions, such as Africa, Asia and LAC, found room to grow in market segments that had historically been neglected by established financial institutions⁵ - with a big highlight to payments, as will be seen below⁶ (Tambunlertchai et. al., 2021).

17. In LAC specifically, the growth was relatively less notable than in these two other regions, likely because the population, particularly in Asia, is larger than in LAC, but also because citizens in LAC already had higher levels of financial inclusion, though levels vary significantly among countries.⁷ Still, it represented a relevant shift in the market.

18. As noted by a recent IDB/Finnovista publication, that resulted in an emergence and overall growth of Fintechs in LAC over the past years.

Figure 2.1. Evolution of the number of Fintechs in LAC, 2017-2023



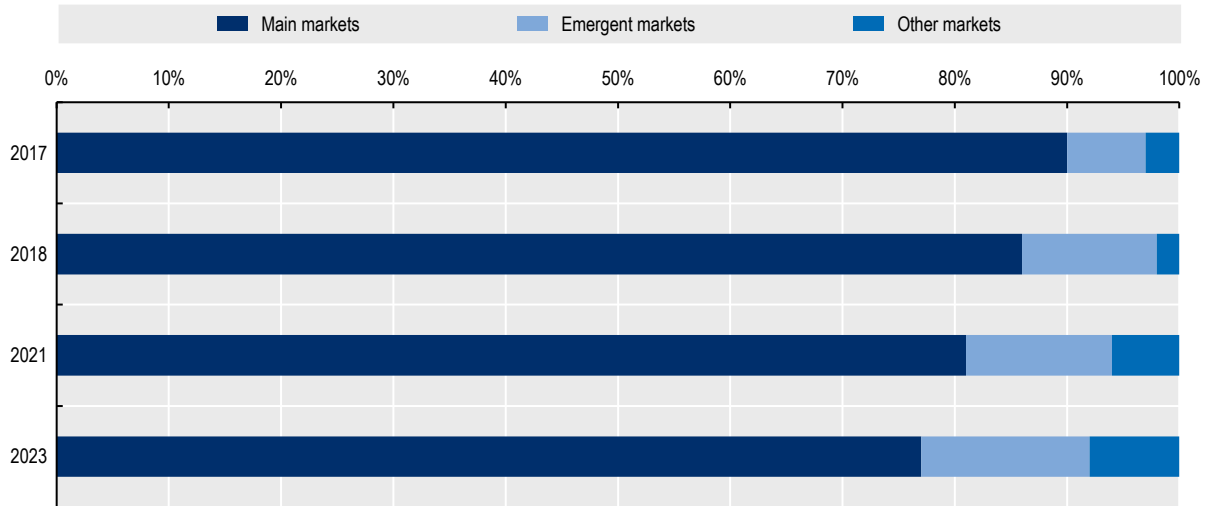
Source: IDB / Finnovista, 2024

(Available at: <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>)

19. Fintech development in LAC is still concentrated in some jurisdictions: the “main markets”⁸ of Brazil, Mexico, Colombia, Argentina, and Chile represent over 77% of all Fintechs in the region, account for approximately 69% of the region’s population (NU. CEPAL. CELADE, 2024), and are home for all of the fintech unicorns in the region. However, there has been notable growth in so-called emerging Fintech markets in LAC - a group of seven countries, comprising Peru, Ecuador, Dominican Republic, Uruguay, Costa Rica and Guatemala - that now already represents approximately 15% of all such companies, vis-

à-vis 13,5% of the region's population (NU. CEPAL. CELADE, 2024). There has been a steady increase in the relevance of this second group of countries in the numbers, as also demonstrated by the IDB/Finnovista publication:

Figure 2.2. Evolution and changing dynamics in the Fintech ecosystem in LAC, 2017-2023



Source: IDB / Finnovista, 2024

(Available at: <https://publications.iadb.org/es/publications/spanish/viewer/Fintech-en-América-Latina-y-el-Caribe-un-ecosistema-consolidado-con-potencial-para-aportar-a-la-inclusion-financiera-regional.pdf>)

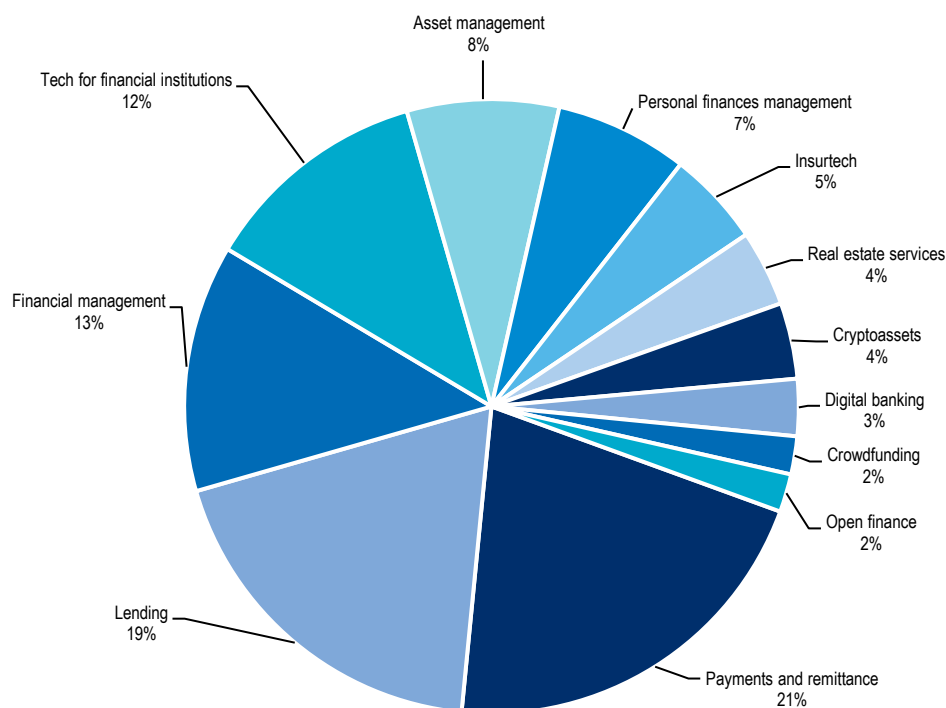
20. The evolution of Fintechs in LAC also stressed another aspect that has been observed across the board in other jurisdictions. Access to financial services in jurisdictions where income is unequal, and a large portion of the population is part of lower social classes, has historically been limited. There is abundant literature showing why that is the case,⁹ but it is generally less profitable to offer services to low-income clients. Before the Internet, access to these users was considerably harder. Moreover, credit information about these consumers is scarcer, making it more difficult for companies to adequately price their services. In addition, developing tailored services was a challenge, given that most of these users could not afford the traditional products that incumbents already had in store.

21. The social opportunities and potential benefits of adding competition to financial markets thanks to the entry of Fintechs are immense, particularly in regions as unequal as LAC. Such a process has already led to an outreach to new citizens (including vulnerable groups) that were up until then excluded from access to financial services, and this movement can still greatly expand. A study by the IFC (Innes & Andrieu, 2022) has shown the concrete impacts of digitalisation and Fintech entry when looking at microfinance institutions in some countries in the region (e.g. Peru, Colombia, Bolivia, Ecuador, Guatemala, Nicaragua). It revealed that the companies reached more lower-income clients when the traditional banking sector was already saturated, even if the strategy of the company was not necessarily focused on those clients.¹⁰ A 2023 study by the IMF (Bakker et al., 2023) also found LAC specific data suggesting that Fintech development is associated with lower income inequality. More specifically, the authors have found that “a higher level of Fintech adoption is associated with a reduction in top income share and an increase in bottom income share, suggesting that Fintech disproportionately benefits lower-income populations.” They were even able to find a positive correlation between Fintech usage and female employment. In summary, one of the major opportunities created by the rise of Fintechs in LAC is the expansion of access to financial services and the inclusion of population segments that were hitherto excluded or neglected by the market. In that light, an important strategy from Fintechs is unbundling

(Awrey, 2021). As mentioned, reduction in costs across the board allowed for entry. However, in many jurisdictions, such entry was strategically based on unbundling the basket of services offered by traditional players and focusing on specific market segments. Thus, Fintechs decided to focus their offer on some products or services, which they felt had more appeal to potential customers that were, up until that point, not properly served by existing offers, and for which regulatory barriers were lower. From the consumers' perspective, this relates to another opportunity associated with the emergence of the fintech sector, which involves gains in specialisation, reflected in the diversification of offerings and customisation of services.

22. In 2023, almost half of all Fintechs operated focusing their offers on either payments and remittance, or on lending.¹¹

Figure 2.3. Distribution of Fintech endeavours in LAC, by segment



Source: Finnovista, 2024

23. This focus on payments is not exclusive to the region.¹² Overall, when Fintechs were looking for niches that could be particularly suited for their business development, payments proved fruitful across the globe. Other than directly impacting end-users, payments also faced large margins and less restrictive regulation, offering a “perfect storm” in the technological development context¹³ - apart from the reduction in costs that networks underwent, consumers of all social strata now had access to mobile phones, which facilitated their insertion into the market.¹⁴ Moreover, consumption was migrating to online, with the growth of e-commerce.¹⁵ Opportunity for new solutions was therefore quite notable, and Fintechs took advantage.

24. The case of payments in Brazil is an example of how this trend materialised, and how payments was an entry point for Fintechs into financial markets. Incumbent acquirers in Brazil were companies owned by large traditional players and formed a duopoly in the country.¹⁶ Fintechs entered the market by slashing fees, as there was considerable room to cut margins.¹⁷ They primarily focused on offering their services to small and medium-sized vendors, with the aim of universalising cards.¹⁸ Because the payments market is two-sided (OECD, 2009), adherence by users depends on availability of payment solutions in stores, and

vice-versa. Given that incumbents never truly focused on either consumers or vendors that much differed from their traditional users, a significant part of the population simply had no access to credit and debit cards. Entrants focused precisely on those users.

25. Once they established this user base, they also attempted to more directly compete with incumbents, by diversifying their activities, including offering digital accounts, lines of credit, insurance, and even investment products.¹⁹ Fintechs began to devise strategies targeting more traditional consumers and market segments, posing a significant threat to established players. A 2024 study by the IDB/Finnovista indicates that although digital banks accounted for just 3% of all Fintechs in LAC in the previous year, they experienced the highest average annual growth rate, at 45% (Finnovista, 2024, p. 25).

26. The cases of Colombia, Peru, and Mexico follow that trend. Fintechs also focused on underserved consumers when entering the market, notably in the segments of lending and microcredit.²⁰ With time, they migrated to other segments (Finnovista, 2024, p. 172). The Mexican case emphasises another aspect of the process: the relevance of technology companies and e-commerce for the disruption of financial services, and their partnerships with Fintechs to enter new segments. In 2017, Amazon launched Amazon Cash, drawing attention to the role e-commerce can play in the financial sector.²¹ Konfio partnered with PayPal and Meta in 2019, with the aim of strengthening its offer of lending services to SMEs.²² The strategy was so effective that entrants quickly started to rival traditional banks. The incumbents fought back and, in 2019, the banking association pledged to lower fees on all digital accounts and on transfers.²³

27. The shift in vertical and conglomerate relations in this market is significant. The entry of new players with no previous ties to the financial market has diminished certain common effects in the sector. However, this has led to the emergence of new vertical restraints and a growing need to address anticompetitive behaviour, such as practices that raise rivals' costs and hinder the entry of new competitors. This will be discussed in greater detail in the following section.

28. A different conglomerate dimension emerged, but its effects are yet unclear: owing to the entry of technology companies into the market, the services now integrated were no longer all financial, but largely conflated financial services with other digitally native solutions, including, in particular, e-commerce. Marketplaces, notably, gained considerable relevance, as integration of their platforms with payment solutions was seamless for consumers and very efficient. A prime example is that of Mercado Libre, an Argentinian company that now operates in most of LAC. Its payments leg, Mercado Pago, is present in seven LAC countries.

29. It is early to analyse in detail what the impact of entry by tech companies in financial markets will be, and not even Fintechs seem to have a clear view on the matter. In 2021, more than 70% of Fintechs signalled that they did not feel competitive pressure from such players, while around 15% felt the opposite. A little over 10% understood there was more competitive pressure from non-tech players (Finnovista, 2024, p. 144). In any case, up until now one can say that entry has mostly led to increased competition.²⁴ As will be noted in the final section, however, the role of data in financial markets could shift the balance in favour of tech companies, notably Big Techs, that have alternative and complementary ways of gathering information about individuals.

30. It is also true, however, that the promise of how Fintechs and digitalisation may change the financial market, increase competition, and ensure inclusion depends not only on companies and their behaviour, but also on how regulation evolves to foster and incentivise these initial movements. After the first wave of disruption by the private sector, regulatory responses and competition enforcement had to follow along. The next section will focus on how that came about and how LAC authorities and legislators have been responding to such calls for action.

3 Emergence of a pro-competitive regulatory framework

31. Traditionally, there has been a certain level of tension between regulation and competition in the financial sector. Given that this sector is highly prone to specific risks and is interconnected with the economy as a whole, it is subject to dense regulation across multiple dimensions. This includes entry regulation, anti-money laundering and counter-terrorism financing regulation, and, most notably, prudential regulation, which aims to prevent systemic risks. Such risks involve the likelihood that a crisis of confidence or liquidity problems within a single or few institutions could infect the entire system and trigger a bank run. The various regulatory instruments used to address these risks create burdens that result in significant administrative costs for market players. In this sense, the high barriers to entry in many markets within the sector are not only associated with intrinsic characteristics of the activity — such as economies of scale, network effects, and sunk costs in infrastructure, branding, technology, security, and distribution channels — but also with the collateral effects of sectoral regulation. That is why many Fintechs have favoured entering markets with lighter regulatory burdens, such as certain segments of the payments industry, as noted above. Contrary to previous patterns, recent regulatory movements have increasingly played a positive role in promoting competition within the financial sector in LAC.

32. As discussed in Chapter 2, the financial sector has changed profoundly in LAC over the last few years, as has happened in other regions of the world. Advances in technology, the entry of new players, the emergence of new products and the reconfiguration of market boundaries have led to competitive gains and the provision of better, more accessible, customised and inclusive financial services. This movement has already generated significant results, by addressing previously neglected needs, and has the potential to bring lasting benefits to consumers and society as a whole.

33. This section intends to discuss the relevant role of financial regulation and competition policy in this process. In the countries of the region where the financial sector has seen significant development in recent years, a pro-competitive and pro-Fintech regulatory framework has emerged. Both in terms of regulation and market dynamics, these developments occur at varying rates and intensities in each country and sector, which is particularly expected in a region characterised by substantial inequalities within and between countries. Despite these mismatches, as will be argued below, these developments signal what can be understood as a probable symbiosis of positive feedback between technology and regulation, which reinforce and balance each other in shaping a new moment for the sector in the region.

34. Based on this general thesis, regulatory changes, although quite diverse in their nature, scale and pace, can be grouped into three categories: (i) regulatory changes that did not have the full picture of tech development and fintech entry in mind, but ended up contributing to creating conditions that enhanced their effects (preparatory measures); (ii) regulatory changes that, having occurred as an immediate response to the rise of Fintechs, sought to update the rules by including new players, models and activities in the regulatory perimeter, which contributed to providing security and legitimacy to the fintech sector (receptive measures); and (iii) more recently, proactive changes that aim to help maximise possible economic and social benefits (deepening measures). Next, drawing from a broad overview of actions taken in various countries across the region, this section aims to provide examples that support this argument.

35. An example of preparatory measures includes decisions by antitrust authorities and changes implemented by regulators aimed at reducing unnecessary barriers to entry²⁵ and fight anti-competitive behaviour by incumbents in traditional markets. This type of intervention can be identified at a stage even before the widespread emergence of the disruptive digitalisation process in the region and, from a retrospective viewpoint, proved important in preparing the ground for its potential effects. In other words, this first group of regulatory changes was not directly a response to the movements towards digitalisation and the emergence of Fintechs. However, having occurred earlier, driven by concerns about a lack of competition in traditional activities, they ended up amplifying the effects of subsequent market developments related to digitalisations and Fintechs.

36. Between the 1990s and 2000s, there was a predominant movement in LAC to consolidate the markets that make up the financial sector, generating concentrated and conglomerated supply structures.²⁶ The effects of the 2007-2009 global financial crisis (OECD, 2010), as well as domestic banking crises in some LAC countries exacerbated the movement of consolidation during that period. In a context in which the physical structure of branches, distribution channels, brand, portfolio, economies of scale and scope, as well as long-term contractual arrangements were central competitive attributes, many markets were dominated by oligopolies formed by the same few institutions and their vertically integrated structures.

37. Oligopolised markets tend to favour anti-competitive practices, both coordinated and unilateral, which contribute to perpetuating scenarios of high concentration and low competition. Thus, when technological advances had not yet proved capable of significantly reducing barriers to entry, regulatory measures by parliaments and central banks and decisions by antitrust authorities in some LAC countries were important in creating the minimum conditions for increased competition in traditional markets.

38. The recent developments in the payments industry in countries such as Brazil, Chile, and Argentina are particularly telling in this context. Not long ago, the merchant acquiring activity²⁷ in these countries encountered minimal to no competition. Large banks, which controlled the card issuance market and/or the two major global credit card networks simply dominated the acquiring and settlement of payments in commercial establishments through vertical structures.

39. In the three countries, the actions of the state, both by competition authorities and sector regulators, were decisive in opening this market. In all of them, the identification of competition issues related to the concentrated supply structure and restrictive vertical arrangements originated from competition authorities. The investigations led to rulings, settlements, and recommendations that, within a short time, paved the way for the establishment of general regulatory standards applicable across the entire sector. These regulations aim to enhance competition, ensure transparency in payment schemes rules, and protect the rights of end consumers. In Brazil, the regulatory framework was even approved as law by the National Congress, followed by detailed regulations from the Central Bank. In Chile and Argentina, post-investigation payment sector regulations were instituted through sub-legal norms by institutions linked to the Executive branch. Within a few years after these interventions, the payments segment became one of the main entry points for many Fintechs and even traditional technology companies into the financial sector, as reflected in the data presented in the previous section.

40. The examples provided in Box 3.1 demonstrate cases where regulators and competition authorities have acted decisively to increase competition, which paved the way for Fintechs to enter the market. Without such actions, technological advancements alone would likely have been insufficient to reduce entry barriers and accelerate the arrival of new players. Although this initiative began some time ago, it is an ongoing effort that remains very relevant in certain jurisdictions within the region. In this context, there are recent cases where competition authorities have been investigating anticompetitive practices by incumbents aimed at restricting the development opportunities for Fintechs in their respective markets.²⁸

Box 3.1. Opening the acquiring market, paving the way for Fintechs in LAC

Brazil

Starting in 2009, a series of investigations and agreements made by CADE, the Brazilian competition authority, played a crucial role in reducing barriers to entry in the acquiring market, which was previously dominated by vertically integrated structures linked to major credit card brands (namely, Visanet and Redecard, which were respectively the exclusive acquirers for Visa and MasterCard). In particular, the authority was responsible for ending exclusivity agreements. Alongside a duopoly structure in both markets, exclusivity agreements significantly limited competition: commercial establishments wishing to accept payments with cards from both networks were required to contract with both acquirers. Through agreements reached with Cade during the investigations, credit card brands and acquirers committed to dismantling the exclusivity agreements and began partnering with other providers. This marked the first step towards the interoperability of payment arrangements. This movement was followed by the approval of Law 12.865/2013 and the issuance of regulations by the Central Bank, which culminated in establishing interoperability as a fundamental principle of the Brazilian Payment System. In the following years, various Fintechs established themselves in this segment and subsequently expanded their operations to other areas of the sector.

Chile

A decade ago, the Chilean acquiring market was monopolised by a single entity, Transbank, controlled by the country's main banks. In 2013, the Chilean National Economic Prosecutor's Office (FNE) initiated a consultation with the Tribunal for the Defence of Free Competition (TDLC) on the matter. The aim was to assess whether the collective authorisation granted to banks, allowing them to collaborate via Transbank in the acquiring services market, violated Decree Law No. 211. In 2017, the TDLC issued a set of recommendations aimed at promoting competition in the card payment methods market, in line with the FNE's proposals. More recently, in 2022, the TDLC issued a ruling on the "Instrucciones de Carácter General N° 5/2002" (ICG N° 5), aimed at improving competition in the credit, debit, and prepaid card payment systems market. The ICG N° 5 incorporates most of the Chilean National Economic Prosecutor's Office (FNE) recommendations from procedure Rol NC 474-2020, which identified market flaws. The ruling addresses anticompetitive risks by modifying Visa and Mastercard's commercial rules and practices, including setting deadlines for interoperability between acquirers and issuers, mandating transparency in interchange fees, and allowing merchants to choose which card types they accept. It also imposes limitations on card brands' control over merchant pricing, mandates regular reporting on cross-border transaction charges, and requires detailed disclosure of transaction costs to merchants. The TDLC's decision aligns with recent Supreme Court rulings and suggests further regulatory actions to ensure competitive practices.

Argentina

In 2016, the National Commission for the Defence of Competition (CNDC) launched an investigation against Prisma Medios de Pago. The company, then controlled by Visa and 14 banks, was the sole acquirer for Visa's payment arrangement. At the same time, First Data was the sole acquirer for Mastercard, jointly controlled by Mastercard and the same banks that controlled Prisma. The authority found that this vertically integrated duopoly structure was detrimental to competition and hindered the entry of other players into the market. The case was concluded with an agreement in 2019, requiring the controlling shareholders to divest 51% of Prisma's shares to the Advent fund. The agreement also prohibits PRISMA from marketing another brand of credit cards until there is another company in the market that carries the Visa brand and forces the company to provide its services in a non-discriminatory manner to any agent.

41. The second type of intervention concerns regulatory and legislative measures aimed at adapting and improving the legal environment in the face of the emergence of new activities, technologies, and business models. Here, regulatory authorities and, in some cases, the parliaments of various countries in LAC have identified changes in the financial sector and decided to enact rules to provide greater legal certainty and stability for new activities and business models in several segments. Measures of this nature were crucial in signalling to market players and investors that these emerging activities and models would have legal backing to further their development and gain relevance.

42. Before presenting a regional overview of measures that illustrate this receptive approach to the emergent movement of Fintechs, it is important to highlight a caveat regarding the relationship between regulation and competition. Even when explicitly motivated by pro-competitive objectives, the implementation of new rules can and often does result in increased barriers at some level. Even regulations designed to legitimise new activities and business models usually come with duties that translate into regulatory burdens. Measuring the net effects of each individual measure adopted in this regard is quite complex and is not the focus of this document. While acknowledging the ambiguous effects that a significant portion of the actions described below may have had on the competitive sphere — yielding some benefits on one hand and some obstacles on the other — the argument here is that considering their context, interconnection, and motivation, these measures, as a whole, have contributed to shaping a more competition-friendly environment in the financial sector. However, this does not mean that regulatory measures of this type are necessarily pro-competitive, regardless of the sector, context, and the manner in which they are implemented, or even that all of them have individually produced net positive effects on competition in the financial sector.

43. A clear illustration of this type of intervention can be seen in the approval of comprehensive legislative projects specifically targeting the sector, recognising, and engaging with the transformations driven by financial digitalisation. As will be seen, this movement pertains both to entirely new activities and to traditional activities that have been developed using new models. In the former case, although with variations from country to country, general regulations have helped establish a level playing field, allowing both incumbents and new entrants to compete in an environment approaching “competitive neutrality”.²⁹ In the latter case, the adoption of new models, combined with regulatory burdens proportional to the size of the market player and the associated risks, has been used in some instances to encourage new entrants with the aim of increasing competition in markets that have traditionally experienced low levels of rivalry.³⁰ Proportionate regulation, which imposes different burdens on players operating in the same markets based on anticipated and transparent justifications, is often criticised by incumbents, who tend to view it as a source of competitive distortion.³¹

44. In 2014, Colombia approved the Financial Inclusion Law, aimed at harnessing the potential of the sector's digitalisation to expand access to financial products and services for historically excluded segments of the population (ÁLVAREZ et al., 2024). This law introduced measures to enhance access to financial transactional services and established the figure of Specialised Companies in Deposits and Electronic Payments, emphasising data security for Fintechs. In 2018, Mexico instituted Ley Fintech in response to the burgeoning Fintech landscape, aiming to formalise and regulate diverse innovative financial services. This landmark legislation, which addresses numerous sector issues, has been crucial in defining clear guidelines for Fintech operations and in boosting the development of the sector (Urdavina et al., 2020). It obliges participants to promote interoperability, increases consumer choice, boosts competition, and establishes a pro-competitive regulatory framework. In 2022, Ecuador approved the Organic Law for the Development, Regulation and Control of Technological Financial Services, known as the Fintech Law. This new law regulates the development, availability, use, and offering of Fintech activities in the financial, securities, and insurance markets. Even at a sub-legal level, it is worth also mentioning Venezuela, where, in 2021, the Institutional Superintendency for Banking (SUDEBAN) issued a resolution aimed at broadly regulating Fintechs.³²

45. Other examples of this type of intervention include parliaments or central banks initiatives, whether related to these general laws or not, concerning crowdfunding, crypto-assets, sandboxes and innovation hubs. These initiatives have also contributed, directly or indirectly, to the formation of a more competitive, innovative, and conducive regulatory environment for the development of Fintechs.

46. Crowdfunding is a method of funding a project or venture by raising small amounts of money from a large number of people, mainly via the internet. It allows companies, entrepreneurs, artists, and others to reach out to a wide audience of potential investors or donors who contribute a relatively small sum, collectively providing the necessary capital. In recent years, many countries in LAC have been actively regulating crowdfunding platforms.

47. For instance, in Chile, crowdfunding has been fostered through the introduction of the Equity Crowdfunding Law, which aims to facilitate access to capital for startups and SMEs while ensuring transparency and accountability. In 2017, Argentina instituted the Entrepreneurial Capital Support Law, which regulates crowdfunding, establishing requirements and guarantees to foster the development of the activity by reducing bureaucratic costs while protecting consumers and investors. In Colombia, Decree 1357 of 2018 regulated collaborative financing activities, aiming to facilitate and encourage alternative financing options for SMEs and other sectors and individuals traditionally facing barriers to accessing the traditional financial sector (Finnovista, 2024, p. 99). Similarly, Brazil has implemented regulations through the Securities and Exchange Commission (CVM), outlining requirements for registration, disclosure, and investor caps to mitigate risks. In Uruguay, the Law 19.820/2019 on the Promotion of Entrepreneurship (the "LFE") amended Law 18.627 on the Securities Market and created a "Crowdfunding System" (Diehl Moreno et. al., 2020). These legislative developments underscore a regional trend towards recognising crowdfunding as a viable alternative to traditional financing methods, while also addressing regulatory frameworks to safeguard investors and promote economic growth.

48. Cryptoassets or cryptocurrencies are decentralised digital assets that use cryptography and blockchain to secure transactions and control the creation of new units (OECD, 2020b). They operate independently of governments or traditional financial institutions, providing an alternative means of exchange and store of value outside the conventional financial system. Various LAC countries have adopted different approaches to regulate these emerging assets.

49. In 2018, under the Fintech Law, Mexico recognised cryptocurrencies as an electronic payment method, which aimed to regulate financial technology institutions, including those dealing with cryptocurrencies, to prevent money laundering and ensure consumer protection. In 2019, Circular 4/2019 became the central regulation regarding the characteristics of operations with virtual assets in Mexico and the sole circular regulating Banxico's authorisations to operate with such assets (Finnovista, 2024, p. 92). In 2021, El Salvador made headlines by adopting Bitcoin as legal tender under the Bitcoin Law (Ley Bitcoin), becoming the first country in the world to do so, although its implementation has faced challenges and strong reactions. In Brazil, Law 14.478/2022 provided guidelines to be observed in the provision of virtual asset services and Decree No. 11.563 of 2023 established the Central Bank of Brazil's powers to regulate its providers.³³ These diverse approaches illustrate the complex regulatory landscape surrounding crypto assets in the region, reflecting ongoing efforts to balance innovation with regulatory oversight and consumer protection.

50. A regulatory sandbox is a controlled environment where regulatory requirements are temporarily relaxed to allow businesses to test innovative products, services, or business models without full compliance with preexisting regulations (Herrera & Vadillo, 2018). This experimental approach aims to foster innovation while managing risks and ensuring consumer protection (Allen, 2020; Blanchet et. al, 2020). Several countries in LAC have implemented regulatory sandboxes to support Fintechs and other innovative sectors.

51. For example, Mexico launched its Fintech regulatory sandbox under the supervision of the National Banking and Securities Commission (CNBV), allowing startups and financial institutions to

experiment with new technologies and business models under regulatory supervision. Similarly, the Colombian Financial Superintendence established a regulatory sandbox in 2018 (“La Arena”) to facilitate experimentation in the financial sector, aiming to promote financial inclusion and innovation. In the Caribbean, Barbados introduced a regulatory sandbox in 2019 under the supervision of its Central Bank, to support Fintechs and other innovative businesses. In Brazil, through CMN Resolution 4,865 and BCB Resolution 29, both of 26 October 2020, the National Monetary Council (CMN) and the Central Bank of Brazil (BCB) established the guidelines for the operation of the regulatory sandbox and the conditions for the supply of products and services in the context of this environment. These experiences across the region demonstrate an interesting approach to embracing technological innovation while balancing regulatory concerns and fostering the sector development.

52. Similarly to sandboxes, regulatory innovation hubs can play a relevant role, providing a dedicated function within regulatory agencies to clarify rules and guide both regulated and unregulated innovative enterprises through regulatory frameworks. Originating with the Netherlands’ Financial Markets Authority in 2007, these hubs have gained recognition globally for enhancing communication between markets and regulators while ensuring legal certainty for entrepreneurs. In LAC, numerous jurisdictions have established Fintech innovation hubs, such as Colombia’s InnovaSFC and Ecuador’s hub focusing on cooperative sectors. Notably, the Dominican Republic’s Fintech innovation hub, launched in 2022 with support from the IDB, exemplifies regional efforts, integrating multiple supervisory bodies to support Fintech ventures across banking, insurance, pensions, and securities markets. These hubs offer consultation services, technical and legal guidance, and foster an entrepreneurial ecosystem conducive to financial innovation (Finnovista, 2024, p. 101).

53. Even with varying degrees of scope and depth, these initiatives share the common feature of recognising the new reality of the sector, granting greater legitimacy and legal certainty to new activities, services, technologies, and business models. The lack of legal backing and regulation is traditionally an argument used by incumbents against newcomers seeking to establish themselves through some form of innovation. In the financial sector, this is exacerbated by preventive duties that translate into supervisory powers conferred upon incumbents, such as major banks and large credit card brands. Incorporating new activities into the regulatory framework, addressing them with regard to their specificities, is a way of acknowledging their relevance while simultaneously protecting them against restrictive actions from incumbents based on biased interpretations of regulations. Pursuing the goal of treating economic agents operating in the same market equitably, while establishing exceptional and proportionate differences based on transparent and legitimate criteria, brings these countries closer to an environment of competitive neutrality, in line with OECD recommendations (OECD, 2024).

54. It is worth highlighting the contribution of competition authorities in this process of regulatory evolution and enhancement. Beyond the control of concentrations and the repression of anticompetitive practices, antitrust policy also plays an important advocacy role, studying and endorsing measures to improve the regulatory environment. For example, Mexico’s Cofece actively participated in the discussion of the Fintech Law, offering suggestions, and championing its approval.³⁴ In Brazil, studies and documents issued by competition defence bodies significantly supported the creation of legal and regulatory norms that helped improving competition conditions in the financial sector.³⁵ In 2021, Peru’s competition authority, Indecopi, published a detailed study on the Fintech sector, which have been contributing to inform and drive regulatory debates.³⁶

55. It is worth noting that competition authorities are uniquely positioned to perform this regulatory advocacy role. On the one hand, by operating across various economic sectors, they maintain greater distance from the regulated agents of each sector and from the regulation crafted by legislators and sectoral agencies. In this sense, their analysis carries a lower risk of bias, which translates into reduced dependence on historical trajectories. On the other hand, through their role in monitoring market structures and addressing anti-competitive behaviours, competition authorities also accumulate technical expertise on the functioning of specific markets, including their failures and distortions. As illustrated in Box 3.1, there

has been a significant increase in important decisions by competition authorities regarding conduct control in recent years within the LAC financial sector. As an example of the first type of measure described above, these decisions have helped pave the way for the emergence of Fintechs, albeit not always in a conscious or anticipatory manner. It is precisely from the technical knowledge accumulated since then and with a greater distance from the ex-ante regulatory arena that these authorities play, in this receptive movement, a strategic advocacy role in the emergence of Fintechs. This role not only supports and justifies decisions already made but not yet implemented, but also primarily contributes to the regulatory debate, outlines potential pathways, and strengthens the mapping of sectoral bottlenecks and opportunities.

56. Finally, a third and more recent type of intervention is proactive and focuses on shaping and deepening the disruptive movement of digitalisation. Its goal is to foster long-term benefits by promoting innovation and competition within the sector. Here, the focus is no longer on reacting defensively against anticompetitive behaviours or adjusting legislation to new technologies or autonomous market agent movements. Instead, it involves regulators themselves initiating autonomous movements towards guiding market players to desired patterns of interaction and transformation, thus repositioning the layers of cooperation and competition in the sector.

57. The main and most widespread example of this third type of intervention is certainly the Open Banking agenda. As discussed in a previous OECD paper, “Open Banking initiatives require banks to provide authorised third-party providers with access to customers’ transactional data, with customer consent” (OECD, 2020b, p. 32). From a global overview, this paper notes that there is significant heterogeneity in the way different jurisdictions have implemented this agenda. In this sense, it suggests a classification that separates jurisdictions into prescriptive, facilitative or market-driven approaches (OECD, 2020b), as well as countries that are still in the preliminary discussion phase of initiatives. As this is a central theme of the discussion proposed in this document, the following section will be reserved entirely for presenting and contextualising Open Banking initiatives in the LAC countries that have advanced this agenda in recent years.

58. To avoid focusing on a single example of this third type of intervention, which will be explored in the next section, it is also worth mentioning the development of new technological infrastructures by the regulators themselves. This type of intervention is illustrated by Central Banks’ initiatives in jurisdictions such as Argentina and Brazil to create new payment systems and arrangements, fostering new functionalities and opportunities for sector’s development. It is important to note that, though these initiatives have the self-proclaimed goal of fostering competition, their impact on markets is multifaceted – and, notably, unclear given that very little time elapsed since their implementation. In any case, up until now, data suggests that they have been able to further inject competition and open room for Fintechs.

59. In July 2021, the Argentinian Central Bank – BCRA launched “Transferencias 3.0,” an open and universal payment system that, through the interoperability of QR Codes, aims to facilitate transactions between different agents in the financial ecosystem, including banks and Fintechs. The system became operational on 29 November 2021 and, two months later, recorded more than two million interoperable transactions. At the same time, the regulator issued various regulations that paved the way for Fintechs to operate in the payments sector.³⁷

60. PIX is an instant payment system managed by the Central Bank of Brazil, established in 2020 and regulated by BCB Resolution 1 of 2020. The system includes the necessary technological infrastructure to facilitate immediate and low-cost clearing and settlement at the Central Bank. Participation in PIX is mandatory for financial and payment institutions authorised by the Central Bank, which is the most important system regulator. Ferreira (2022) positions it as a “key policy instrument to calibrate regulation and competition in the payments industry, while also renewing BC’s [Central Bank’s] role in the digital arena”. The system reached 49 billion transactions by March 2024, with 154 million individual users. More than half of these transactions are person-to-person, enhancing financial inclusion, promoting innovation, and creating opportunities for new players in the financial sector.

61. In conclusion to the discussion in this section, it is essential to provide a comprehensive interpretation that synthesises the dynamics of the market and regulatory changes outlined thus far. As in other regions of the world, the profound and extensive transformations witnessed in LAC's financial sector over the past fifteen years defy simple explanations based on singular factors. Neither technological advancements nor pro-competitive regulatory measures in isolation can account for the ongoing shifts. Rather, it is the interplay and synergy between these factors, blending reinforcing and countervailing forces, that have shaped an entirely new competition and microeconomic landscape. Many questions remain regarding how this evolving framework will impact competitive conditions and societal well-being in the future. However, addressing most of these questions hinges on understanding the continued development of these dual elements: technological progress and economic regulation (both ex ante and ex post).

4 Open Banking in LAC and data-driven competition

62. The previous section developed the argument that regulatory changes can be classified into three categories from the perspective of digitalisation and the rise of Fintechs: (i) preparatory; (ii) receptive; and (iii) deepening. In certain countries, Open Banking is the foremost example of deepening, proactive regulation, where regulators aim to take the lead in the process and steer market transformations in a direction they consider most beneficial for maximising economic and social benefits.³⁸ Open Banking has only just started to be implemented in LAC, so this section aims to provide more context on what it could mean for the future of the market and also to detail where different jurisdictions stand.

63. Few debates in competition law are as contemporary as the discussion on the competitive impacts of "big data" and "data-driven economies." Despite significant efforts by competition authorities and academics to shed light on this topic,³⁹ uncertainties and controversies still outweigh consensus.

64. The potential competitive advantages of data usage fundamentally depend on the characteristics of the economic activity in which they are employed, as well as the nature, variety, and volume of data accessible compared to the data available to other market players. Among various traditional markets, banking services, especially credit offering, exemplifies a sector highly sensitive to data. This is because (i) processing extensive data on customers' financial histories and transactions is crucial for identifying their needs and, more importantly, for analysing risks, which is central to the pricing of numerous products; and (ii) as discussed in section 2, the digitalisation of this market is progressing rapidly, gradually increasing the importance of data. In this context, access to data becomes relevant for innovating in the design of new products, pricing methods, customisation, and offer segmentation.⁴⁰

65. Beyond the characteristics of the market and the relevance of data in each activity, another important aspect concerns the availability of data and the ability of competitors to reasonably replicate the databases employed by dominant players (Sokol & Comerford, 2016, p. 1129). Incumbents in data-intensive markets may engage in practices aimed at protecting their dominance over these assets, such as advocating for restrictions on competitors' access to data and databases, preventing data sharing, or imposing limits on data portability policies, all to safeguard their competitive advantages (Stucke & Grunes, 2015, p. 3).

66. In this context, in the past decade, numerous state measures and private initiatives aimed to reduce information asymmetries in the financial sector, making data more accessible while respecting the rights of data holders to consent to or decline data sharing among different institutions (OECD, 2020b). These regulatory initiatives arise not only from concerns about competitive distortions due to information asymmetry but also from a declared intention by regulators to promote competition and encourage the development of new solutions, models, and market players in the sector. In this context, regulatory initiatives emerge to govern the portability and access to information and the interoperability of applications and systems, commonly known as Open Banking initiatives. These initiatives seek to balance information access among different agents, tend to increase the burdens on incumbent institutions, and reduce barriers for new entrants, especially Fintechs.

67. The global rise in data privacy legislation is another fundamental element, which has significantly influenced the development of Open Banking initiatives worldwide. While distinct from Open Banking, data privacy laws have provided foundational concepts and reinforced the premise that individuals and companies own their financial data, not the financial institutions to which they are linked. This legal framework has catalysed broad institutional agendas, establishing a fundamental shift towards greater consumer empowerment and data sovereignty. Concurrently, as discussed above, economic and technological advancements have further bolstered conditions conducive to advancing Open Banking initiatives, fostering innovation and regulatory adaptation within the financial sector.

68. The United Kingdom stands as a prime example of Open Banking, launching its initiative in 2018 under regulatory mandates aimed at enhancing competition and empowering consumers.⁴¹ The UK's experience has served as a blueprint for other jurisdictions exploring or adopting similar frameworks globally. This initiative demonstrates how robust regulatory frameworks can support innovation and competition while safeguarding consumer interests.

69. Many LAC countries have advanced their Open Banking and Open Finance agendas, at varying speeds and with different approaches in each jurisdiction. Pioneering nations like Brazil and Mexico have made significant strides in implementing Open Banking frameworks, leveraging robust regulatory frameworks. A second wave of efforts includes countries such as Chile, Colombia, and Ecuador, which have followed suit with Open Banking initiatives, albeit at varying stages of implementation and regulatory maturity. Peru represents an early-stage candidate poised to join a potential third wave, demonstrating nascent interest and regulatory groundwork in exploring Open Banking possibilities. Finally, Argentina presents a unique case in the region with a possible market-driven approach, akin to models observed in the United States of America.⁴² Other countries, such as the Dominican Republic,⁴³ have shown interest in developing Open Banking initiatives, although they have not yet implemented concrete measures in that direction.

70. As LAC countries continue to navigate diverse regulatory landscapes and economic dynamics, the evolution of Open Banking frameworks will play a pivotal role in shaping the region's financial future, driving innovation, enhancing financial inclusion, and improving competition and consumer welfare. Amidst governmental efforts to construct a regulatory framework aimed at achieving these objectives, economic agents will find themselves in opposing positions, each seeking to influence regulatory production and to shape policies that either foster their competitive advantage or mitigate perceived risks (OECD, 2020b).

71. Conflicts of interest surrounding the Open Banking agenda among traditional incumbents, Fintechs, and traditional technology companies are complex and rooted in competitive dynamics within the financial sector. Traditional incumbents, such as established banks and credit card brands, hold vast amounts of customer data accumulated over decades. For them, Open Banking poses a challenge of securely sharing this data with others without compromising customer security or losing control over strategic information. On the other hand, Fintechs and traditional tech companies view Open Banking as a gateway to levelling the playing field in financial services. By gaining access to customer data, these entities can develop innovative, personalised, and more efficient financial services. This potential to attract customers away from traditional incumbents underscores the competitive threat perceived by established banks, which rely heavily on fee-based revenue models that could be disrupted by new entrants. Meanwhile, tech companies, which tend to already control large volumes of data that, while not necessarily financial in nature, can be valuable for providing financial services, tend to have little interest in assuming symmetrical obligations to those imposed on financial institutions under Open Banking initiatives.⁴⁴

72. Moreover, the clash extends to business models and revenue streams. Traditional banks may resist moving away from their fee-based models, whereas other companies, including Fintechs, seek to introduce new business models that could reshape how financial services generate revenue. Regulatory compliance and data protection further complicate matters, as different entities interpret and implement regulations in ways that align with their strategic objectives and risk management frameworks.

73. In conclusion, the strategies to promote competition via data portability and the resolution of conflicts between traditional incumbents, Fintechs, and traditional technology companies in the Open Banking sphere hinges largely on market forces and regulatory developments in each country. Understanding the specificities of the Open Banking agenda and its context in each jurisdiction is crucial. This includes recognising how market dynamics shape competitive landscapes and how regulatory frameworks influence the strategies and outcomes of all stakeholders involved. As countries navigate these complexities, the evolution of Open Banking will continue to be shaped by a delicate balance of innovation, regulation, and market dynamics.

74. The Open Banking initiatives in LAC and the context in which they have been or are being developed in each of the jurisdictions where this agenda has been or is being implemented are presented below.

4.1. Regional Pioneers: Mexico and Brazil

Mexico

75. Mexico has emerged as a pioneer in the region with its proactive approach to Open Banking. In 2018, Mexico passed its Fintech Law, supported by the Inter-American Development Bank (IDB), marking a crucial step towards regulatory clarity and innovation in financial technology. This legislation, influenced by interactions with the UK's Financial Conduct Authority (FCA) starting in 2016, aimed to adapt British expertise to Mexican conditions, fostering a robust environment for financial innovation (Bañuelos Castro, 2018).

76. Under Article 76 of Mexico's Fintech Law, provisions were made for Open Finance, mandating the establishment of APIs to facilitate connectivity among financial institutions, Fintechs, and other authorised entities. The National Banking and Securities Commission (CNBV), as the regulatory authority, took charge of drafting technical standards to ensure the security and interoperability of these APIs. By 2020, Mexico had published comprehensive rules specifying technical and security requirements for APIs, setting the stage for enhanced data sharing while safeguarding consumer privacy.

77. Central to Mexico's Open Banking framework is adherence to data protection principles outlined in the General Law for the Protection of Personal Data Held by Private Parties, enacted in January 2017. This legislation, supported by the National Institute for Transparency, Access to Information, and Personal Data Protection (INAI), underscores Mexico's commitment to respecting users' privacy rights amidst the evolving landscape of financial data exchange.

78. In terms of enforcement, Mexico's regulatory approach is structured to ensure compliance with Open Banking standards. The CNBV not only sets technical standards but also oversees implementation and enforces adherence to these standards through regulatory inspections and audits. This enforcement framework is crucial for maintaining the integrity and security of data exchanged through APIs, thereby fostering trust and reliability within the financial ecosystem.

79. Looking forward, Mexico's Open Finance implementation unfolds in phases, beginning with the exchange of public data through APIs and progressing towards standardising transactional data and other forms of information by 2023. This phased approach aims to enhance transparency, efficiency, and competition within Mexico's financial sector while ensuring that data is utilised responsibly and with the explicit consent of consumers.

80. Mexico's state-driven approach to Open Banking exemplifies a strategic alignment of regulatory advancements, international collaboration, and commitment to consumer protection. However, despite its regional pioneering, five years after its inception, the pace of Open Banking implementation in Mexico has been somewhat underwhelming. Following the first phase, the expansion of data interoperability seems to

have stalled, necessitating, for example, the establishment of standards for sharing transactional data to achieve the desired outcomes for innovation and competition. In this regard, there is a perception that countries in the region that began implementation after Mexico, such as Brazil, Chile, and Colombia, are progressing more rapidly regarding Open Banking initiatives. This does not diminish the remarkable merits of the advances achieved by Mexico, but it highlights the challenges faced in deepening the agenda, such as the need to improve the governance model and overcome obstacles to reach consensus and convergence among different regulators and market participants in order to provide more robust and productive regulatory parameters.

Brazil

81. Over the past decade, the Central Bank of Brazil (BCB) has prioritised a broad agenda to promote competition in the financial sector. During this period, either directly or through dialogue with the National Congress and other branches of the Executive Power, the regulator formulated and implemented a series of reforms and strategic actions to modernise Brazilian regulation, fostering an environment of greater innovation and competition. Regulatory advancements during this period include the interoperability and opening of the payments market, the implementation of segmentation and proportionality criteria in prudential regulation, the creation of a regulatory sandbox, the regulation of crypto-assets, the establishment of the Positive Credit Register, the creation and implementation of the PIX payment system, the conception of the Real Digital project, and the creation of regulatory frameworks that facilitated the development of payment and credit Fintechs (Ferreira, 2019), among other measures.

82. Open Banking fits into this context as a central part of this agenda, positioning Brazil at the regional and global forefront of financial regulation enhancement. Open Banking regulation in the country began in 2019, aiming to create mandatory rules for the integration of the financial ecosystem through APIs that allow data flow between banks and other financial service providers, always based on the data holder's consent. Resolution No. 1 of 2020 and Circular 4015 of 2020 mandated that financial institutions, payment institutions, Fintechs, and credit cooperatives ensure compliance with the necessary technological interfaces for data and service sharing. This includes historical data on accounts, transactions, investments, and credit operations, as well as payment initiation services and the transmission of credit operation proposals.

83. According to its regulation, the implementation of Open Banking in Brazil occurs in phases based on the type of information or service shared: (i) in the first phase, public information; (ii) in the second, consumer information; (iii) in the third, data associated with payment initiation services via PIX; and (iv) in the fourth, open data on insurance, pensions, investments, and others. Reflecting the scope of its reach, from 2022, the arrangement was renamed Open Finance.

84. The BCB and the National Monetary Council hold the authority to define the scope of what will be shared and to establish the rules and obligations governing the arrangement's governance. On a secondary level, there is a space for assisted self-regulation, organised and funded by private agents to meet the regulator's definitions and establish technical standards related to data access, cybersecurity, user authentication, and so on. This is a public-private governance structure, where the self-regulation layer is managed by both incumbents and new Fintech entrants, always with the oversight and supervision of the BCB.

85. Currently, Brazilian Open Finance is in its fourth phase of implementation, allowing the sharing of investment data, with 27 million users and 40 million active consents (Febraban, 2023). All major banks participate in the arrangement, along with Fintechs and credit cooperatives.

4.2. Second wave of institutional initiatives: Colombia, Chile, and Ecuador

Colombia

86. The evolution of financial sector regulation in Colombia has been marked by several key legislative milestones, culminating in recent initiatives towards Open Banking. It reflects a proactive approach to integrate technological advancements while ensuring robust consumer protection measures.

87. As early as 2008, Colombia pioneered data privacy legislation in the financial sector with Law 1266/2008⁴⁵ (“Habeas Data Financiera”), which focused on handling personal data related to financial, credit, commercial information, and data from third countries. This law mandated financial institutions to uphold privacy, rectification, and update rights for collected information.

88. Following advances in other regulatory matters, Colombia has more recently adopted initiatives towards Open Banking. In 2022, Colombia published Decree 1297, which outlined the requirements for a voluntary framework for Open Finance. Governed by the Financial Superintendence, this decree mandates standards for data exchange among financial institutions, regulates digital platforms and services, and oversees Payment Initiation Services (PIS). The decree also highlights the enhancement of financial security and stability, the broadening of payment system accessibility, and the fortification of institutions. Recently, the SFC has mandated that supervised entities adhere to updated standards for all monetary transactions involving QR codes, aiming to standardise information across the payment’s ecosystem.

89. The implementation of Open Banking in Colombia comprises three phases. The initial phase focused on Payment Initiation, which involves enabling secure and direct payments through third-party providers, offering consumers more convenient and efficient payment options. The goal was to streamline transactions while ensuring robust security measures are in place to protect consumer data. With External Circular 004 of 2024, the first phase of Open Finance implementation in the country is marked as complete, positioning it as the third in the region to establish this framework, after Mexico and Brazil (Finnovista, 2024, p. 94).

90. Building upon the foundation of Payment Initiation, the second phase, scheduled for 2024 and 2025, expands into aggregation, credit scoring, and financial planning. This stage aims to empower consumers with comprehensive financial insights, including aggregated account information and personalised credit assessments. Financial planning tools will help individuals and businesses make informed decisions and manage their finances effectively.

91. The final phase, culminating in 2026, focuses on enabling the exchange of financial data related to investment funds, pensions, and insurance. This phase aims to facilitate seamless data sharing among financial institutions, enhancing the efficiency of services such as investment management, pension planning, and insurance coverage.

92. It is worth mentioning that the National Development Plan Act 2022-26 incorporates mandatory open data provisions to promote competition and innovation for financial and credit inclusion, as well as financial portability as a right.

93. In summary, Colombia's progression towards Open Banking highlights its dedication to modernising the financial sector while protecting consumer interests and encouraging competition and innovation. The regulatory framework established in Colombia is allowing Fintechs and other financial institutions to create new offerings based on extensive financial data, thereby enhancing financial inclusion.

Chile

94. Fintechs experienced relevant growth in Chile over the past decade. While in 2016 there were only 56 Fintech companies operating in the country, that number surpassed 110 in 2019 and reached 300 in

2023 (FINNOVISTA - Chile, 2023). Likewise, regulatory development was notable. Chile passed legislation in 2020 focusing on financial portability, and in 2021 focusing on interchange fees and on transparency and competition. To expand and consolidate such measures, as noted by the IDB, the Ministry of Finance commissioned studies on what would be required for an Open Banking system to be implemented in the country. In that light, in 2023, a law came into force focusing specifically on Fintechs and Open Banking.

95. The legislation tackles Open Banking by establishing the System of Open Finance (Sistema de Finanzas Abiertas), which shall be supervised by the Financial Markets Commission (Comisión para el Mercado Financiero). As mentioned, however, it is a broader norm equally focused on incentivising “financial services offered by means of technology” (servicios financieros basados en tecnología).

96. Interesting to note that, in Article 2 of Title II, the law sets out which services fall within that concept, listing crowdfunding platforms, alternative transaction systems, credit and investment assistance, custody of financial instruments, as well as order routing and financial instrument intermediation. However, companies subject to Open Banking are classified differently in Article 17 of Title III. They encompass (i) “institutions that provide information” (instituciones proveedoras de información), including banks, credit card issuers, or any other payment system allowed to operate by the Financial Market Commission; (ii) the “institutions that provide services based on information” (instituciones proveedoras de servicios basados en información), for their turn, can (but are not obliged to) be a part of the system. To do so, they must register before the Financial Markets Commission, and follow the applicable norms - many of such rules are yet to be issued by the Commission, but will focus on security and safety. Any of the companies that are classified as information providers can also adhere to this second category; as well as (iii) payments initiation providers (proveedores de servicios de iniciación de pagos), who shall be subject to the rules applicable to the previous category, that is, institutions that provide services based on information, and (iv) accounts providers (instituciones proveedores de cuentas).

97. Broadly put, the information that must be shared in the system includes: (a) terms and conditions of products/services, which shall be publicly accessible, (b) identification and registration of clients, which shall be made available according to clients’ authorisation, (c) commercial conditions and use/history of transactions regarding products/services, also subject to clients’ authorisation, (d) communications between financial service providers, in order to enable portability, (e) data needed for payment initiation services, also subject to client’s authorisation, and (f) other data or information related to financial services that the Commission will come to regulate. Further specification on how information shall be shared, by whom, and according to which requirements - for instance, how approval by consumers is to be obtained - will depend on additional action by the regulator.

98. The Commission was granted 18 months to fully regulate the System of Open Finance. Following that mandate, in April 2024, it opened a public consultation regarding the regulation of the Fintech and Open Banking norm.⁴⁶ The proposal “addresses the various elements and themes that must be developed through general standards given by the Financial Market Commission in the exercise of its powers”, in line with the requirements of the law. It presented a proposal for the implementation of additional rules, which received comments up until May 2024.

Ecuador

99. In Ecuador, until recently, the development of the Fintech sector occurred without significant regulatory evolution (Íñiguez Matute, 2021). In 2017, the country had 31 Fintechs, a number that grew to 55 in 2020 and 69 in 2023 (Finnovista, 2024). Besides the substantial relative growth rates, these are considerable absolute numbers for a country of 18 million inhabitants, just over half the population of Peru and a bit more than a third of the population of Colombia.

100. Thus, during most of this recent expansion period, in the absence of specific regulation and state risk assessment (BCE, 2022), Fintechs sought legal support in standards not designed for their activity.

For example, they looked for legal support in definitions contained in Articles 433-439 of the Organic Monetary and Financial Code (COMF), which address the nature, classification, operation, and control of Auxiliary Services Companies (BCE, 2022). After the enactment of the Innovation Law in February 2020, new Fintechs also began to utilise the generic entity of the “Simplified Share Company” (SAS) to benefit from a less bureaucratic and cost-effective regime for company formation (BCE, 2022).

101. This framework of low regulatory density underwent a significant change on 22 December 2022, with the Fintech Law. In addition to recognising an expanding activity and providing greater legal security to market participants, the initiative aims to promote innovation, competition, and the adoption of new technologies in services that contribute to financial inclusion, economic productivity, and the reduction of social inequalities, with consumer protection as the main focus.

102. The Fintech law identifies five different types of activities: (i) infrastructure technologies for channelling payment methods; (ii) technological financial services; (iii) companies specialising in electronic deposits and payments; (iv) stock market technological services; and (v) technological insurance services. Article 19 of the law defines a new classification for data in the financial services sector, including reserved data, confidential data, and open data. It also mandates that the Monetary Policy and Regulation Board will implement and offer the necessary arrangements so that the private financial system can provide Open Banking services, which includes APIs for validating financial information, to facilitate interoperability with Fintech companies.

103. Therefore, despite recent regulatory advances, there is still a long way to go to ensure the implementation of Open Banking and, more broadly, a full pro-competitive regulatory framework.

4.3. Initial movements of a likely next candidate: Peru

104. While Peru currently lacks specific Open Banking regulations, it has laid groundwork for potential future implementation. Among the advancements in the country's regulatory framework is Law 29733, which governs the protection of personal data. With the approval of Bill 7870/2020, the National Authority for Transparency and Protection of Personal Data was created, as well as introducing the "right to data portability" into Law 29733. This initiative aimed to enable individuals to request the transfer of their personal data from one controller to another, where technically feasible.

105. In the field of financial regulation, Supreme Decree 157-2021 PCM, which regulates the National Digital Transformation System, includes provisions related to Open Data, promoting transparency and accessibility.

106. Further bolstering cybersecurity measures, the Reglamento para la Gestión de la Seguridad de la Información y la Ciberseguridad (Resolution SBS · 504-2021) sets out standards for information security and cybersecurity within the financial and insurance sectors. This includes requirements for API usage in service provision and minimum security obligations for service providers.

107. In April 2022, the legislative initiative Bill 1584/2021-CR was presented, marking Peru's first legislative step towards Open Banking implementation. This initiative declares national interest in massifying Open Banking and tasks the SBS with designing implementation strategies.

108. The Reglamento de Interoperabilidad de los Servicios de Pago, published in October 2022, focuses on enhancing payment service interoperability among regulated entities, payment service providers, and payment systems, further facilitating financial inclusivity and efficiency.

109. The SBS continues to update its regulatory framework in response to digital transformation advancements, ensuring ongoing improvements in supervision and regulation. Notably, it expressed support for the Proyecto de Ley 1584/2021-CR in May 2022, underscoring its commitment to fostering a dynamic and secure Fintech ecosystem in Peru.

110. These advances and proposals make Peru the most advanced country among those signalling a third wave of Open Banking initiatives in the region. However, there appears to be a considerable distance yet to cover for regulations to align with the sector's growth potential and the even greater impact it could have on the country's financial inclusion efforts.

4.4. The case of Argentina and a possible market-driven Open Banking approach

111. Argentina has one of the most dynamic and promising Fintech markets in the region, exhibiting a rapid growth rate, led in some cases by nationally significant companies with regional relevance. Amid this intense market development, regulation has advanced over the years. Unlike other jurisdictions in the region where these advances occurred wholesale through comprehensive and ostensibly enduring legal frameworks, Argentina's regulation has been developed incrementally through thematic, cooperative and sectoral measures. Recently, the country has taken initial steps towards designing its own Open Banking model.

112. According to Lessambo (2023, p. 236), the National Securities Commission (CNV), through General Resolution No. 926/2022, created a kind of open collaborative forum to facilitate interaction between private entities and regulators, providing responses on legal and regulatory issues for Fintechs and crypto sector agents. From the perspective of this incremental improvement scenario, Herrera et al. (2023, p. 68) note that even without specific state regulation for the arrangement and implementation of Open Banking, Argentina has seen market agents themselves take action to establish the foundations of an Open Finance ecosystem. The authors cite two examples.

113. The first example refers to the construction of the first Banking as a Service (BaaS) model, led by BIND, an industrial bank, and Poincenot, a technology studio. The aim was to give financial sector agents, both banks and Fintechs, the possibility to use open APIs to access financial data and products. Through these open APIs, companies can integrate their systems with banking systems to make payments, collections, investments, and reconciliations.

114. The second example concerns the MODO digital wallet, an initiative created by a consortium of 39 public, private, and cooperative banks to help users make payments. It is an associative model, but it is not open to all Fintechs and the financial market. Moreover, users cannot choose which other members of the infrastructure can access their banking information.

115. Herrera et al. (2023, pp. 68-69) argue that, in the broader context, these examples indicate that Argentina is moving towards adopting a market-formulated and market-driven Open Banking approach, albeit under state supervision and interaction. Whether or not this hypothesis is confirmed, it is notable that this is a different regulatory strategy compared to others in the region, as discussed above.

116. In Argentina, the state has not adopted comprehensive and all-encompassing measures that address the sector's entire complexity, nor has it volunteered to lead the creation of all standards and infrastructures necessary to implement data portability and system interoperability. Although incremental relevant regulations have been issued with correlated objectives, regulators seem to be betting on a more horizontal interaction with market agents, leaving room for them to develop their own self-regulation solutions in certain dimensions, especially in the case of Open Banking.

5 Conclusions

117. The financial sector in LAC has been undergoing significant transformations, like those seen in other regions of the world. Technological advancements and the rapid digitalisation of the market, highlighted by the striking rise of Fintechs, have played a decisive role in this process.

118. However, while these are necessary elements, they are not sufficient to fully explain the nature and scale of the changes observed. Certain regulatory advances have also played a crucial role at various stages and dimensions, at times preparing the ground, at times welcoming and protecting new technologies and models, and more recently even leading and fostering new disruptive movements. Thus, intertwined with the new competitive landscape, a pro-competitive regulatory structure is emerging, becoming increasingly complex and ambitious.

119. Open Banking currently stands as a main element of this common agenda, both regionally and globally, aimed at deepening the market transformation towards greater competition, innovation, and inclusion. Countries like Mexico, Brazil, and Colombia have been advancing in Open Banking initiatives, serving as examples to be followed in the region. On the other hand, considering the stage of Open Banking implementation in the region, which varies greatly among countries, it is evident that there is still a long way to go for this process to consolidate and become sustainable, realising the potential and promised gains in efficiency and welfare.

120. What should still be highlighted is the role competition authorities can play in this process of rapid technological transformations. Authorities were important in guaranteeing that Fintechs could enter the market and compete effectively, pursuing investigations against incumbents who tried impeding such developments. Now, especially in light of upcoming Open Banking regulations, they may again play an important part in ensuring vigorous competition. As noted in section 4, Open Banking came about owing to an understanding that one of the relevant barriers to entry into financial markets, namely access to data, is still a challenge to most players.

121. To reduce these barriers, the legal introduction of customer rights over their data and the establishment of duties for service providers regarding consented data sharing are important steps, but not sufficient on their own. It is also necessary to build economic incentives (such as reciprocity obligations and fair distribution of benefits and costs), as well as establish interoperability standards and infrastructures that materially support Open Banking initiatives, while preserving an environment of fairness, proportionality, and technological neutrality (OECD, 2023b).

122. Nevertheless, legacy banks are not the only companies with significant access to data. Other companies, especially those operating in the technology sector, also have vast amounts of data at their disposal. In that light, it will be important for competition authorities to closely monitor what the new balance between market agents will come to be. Tech companies from traditional sectors, such as e-commerce, search, mobile, and others, have already entered financial markets. How they will leverage their expertise to compete in this market is important to guarantee vigorous competition.

123. Likewise, another aspect competition authorities will need to pay close attention to is the behaviour of Fintechs that are no longer entrants. In some segments, entry was so effective that small players have grown and gained a lot of significance. In that context, a movement that will require scrutiny is the potential attempt of re-bundling. Companies will have every incentive to keep users at their platforms by offering a

larger variety of products and services. That process can be very beneficial, but it can also lead to lock-in strategies that aim to keep consumers engaged with specific environments and prevent them from accessing alternatives.

Endnotes

¹ Recent literature and technical reports have increasingly adopted the term Open Finance to refer to this agenda. As noted in a previous OECD document (2023a, p .6), "Open Finance could be described as the next stage in the evolution of Open Banking-type of data sharing arrangements," which "expands data access and sharing to sources beyond payment/transaction data, while also including other areas of financial activity (e.g. insurance)." As will be seen later, in some LAC jurisdictions (e.g. Brazil, México and Colombia), this terminology has replaced the term Open Banking, reflecting the expansion of the scope of this regulatory agenda. However, since this shift has not been uniform across the region, and a significant portion of the literature and legislation reviewed still predominantly uses the term Open Banking in a general sense, this will be the term primarily used in this document, with Open Finance being mentioned only to describe initiatives that have genuinely aimed to advance into this second phase of developments in the region.

² Application Programming Interfaces (APIs) are "technology-enabled protocols that enable a computer system or source of data to interact with, or be used by, other software; they allow applications to share data and functionality" (OECD, 2020b).

³ As noted by Alfonso et. al. (2020): "In LAC, these changes resulted in a significant decline in cash withdrawals and POS transactions in the first half of 2020, matched by a significant expansion in the use of mobile, phone and internet banking ([Graph 5](#), left-hand panel). In Colombia, customers' deposits at non-bank payment providers tripled between March, when the lockdown started, and June 2020 (centre panel). In Mexico, the Covid-19 pandemic gave a significant boost to CoDi use. The number of new customers sending payments through CoDi started to grow soon after lockdown had been announced, reversing the trend observed until then. The volume of transactions accelerated subsequently, and the average payment value increased by almost 35% relative to its pre-pandemic levels".

⁴ Information available in: <https://www.poder360.com.br/economia/brasil-tem-o-menor-numero-de-agencias-bancarias-da-serie-historica/>

⁵ As OECD (2020a, p. 11) has already emphasised: "Fintech firms have taken advantage of unmet customer needs in payments and transfers (such as international remittances), credit, and investment advice."

⁶ As noted by the IMF Working Paper, "Fintech companies typically operate in narrow lines of business in which they have comparative advantages, often targeting populations underserved by existing banks such as those with limited formal credit history." (p. 19).

⁷ According to the World Bank, data from 2021 showed that Nicaragua had the lowest percentage of people with access to a bank account, with 26%, while Brazil had the highest, with 84%.

⁸ According to the IDB, geographically speaking LAC can be divided into a “main market” for Fintechs, an “emergent market”, and “other markets”. The division stems from the fact that five out of all LAC jurisdictions, notably Brazil, Argentina, Mexico, Colombia, and Chile, concentrate the vast majority of Fintechs in the region (over 75%). For their turn, six other jurisdictions, namely Peru, Ecuador, Dominican Republic, Uruguay, Costa Rica and Guatemala are said to present an emergent growth. Together, they represent approximately 15% of Fintechs. Classified as pertaining to “other markets” are Panama, Bahamas, Paraguay, El Salvador, Bolivia, Jamaica, Honduras, Venezuela, Belice, Barbados, Nicaragua, Guyana, Haiti, Trinidad y Tobago, Suriname, which account for approximately 8% of Fintechs.

⁹ See, for example: Beck, & Honohan (2009); and Cihak & Sahay (2020).

¹⁰ “In regions with less poverty (to the left side of the horizontal axis), MFIs are being forced by competition to serve poorer individuals. That is, their customers tend to be poorer on average in that region, and so sit above the sloping black line. Banks in these areas are serving relatively higher income people, so MFIs seek different, lower-income customers.” See: <https://openknowledge.worldbank.org/server/api/core/bitstreams/d01751be-beca-5b00-b6e8-c8dad6c50fca/content>

¹¹ More specifically, 21% of offers were focused on payments and remittance, and 19% on lending (Finnovista, 2024).

¹² In Europe, for example, 5 out of the 10 largest Fintechs deals from 2018 were focused on payments. See: Pulse of Fintech 2018, Global Analysis of Investment in Fintech, KPMG International (data provided by PitchBook) January 4, 2019. As noted by Gupta and Xia (2018), India’s Fintech development was largely driven by payments and lending. Soriano et al. also highlight that digital payments and digital lending represented the largest number of companies in ASEAN countries, noting that this trend is especially common in developing countries, given that these products “are the most ubiquitous in everyday life” and “serve as the main foundation to a wide variety of financial products”. See <https://www.jbs.cam.ac.uk/wp-content/uploads/2020/08/2019-ccaf-asean-fintech-ecosystem-benchmarking-study.pdf>

¹³ For a broad review of the relevance of mobile payments technology, see Liu et. al. (2015).

¹⁴ As noted by Alfonso et. al. (2020): “Wider use of the internet and mobile phones, as well as the large margins earned by PSPs, have made LAC an attractive market for new firms and the adoption of innovative and more convenient payment methods. Indeed, in recent years the region has witnessed the rapid growth of fintech firms. The largest share – 25% of the total number in 2020 (according to Pitchbook Data) – are active in the area of payment services, offering, for example, payment gateways, aggregators, digital wallets and mobile POS”.

¹⁵ See for example, the J.P. Morgan’s “Local and cross-border insights: global e-commerce trends report”: <https://www.jpmorgan.com/content/dam/jpm/treasury-services/documents/global-e-commerce-trends-report.pdf>

¹⁶ For an in-depth assessment of this topic, see the joint report produced by Brazilian competition authorities and the Brazilian Central Bank: https://www.bcb.gov.br/content/estabilidadefinanceira/Publicacoes_SPB/Relatorio_Cartoes.pdf

¹⁷ Numbers help tell this story. In 2008, as mentioned, there were two players in this market in Brazil. Today, the market already has more than 20 acquirers. In 2008, the fees acquirers charged vendors for credit transactions revolved around 3%. In 2017, it dropped to 2.67%. In the same period, fees for debit transactions declined from 1.6% to 1.48% (CADE, 2019).

¹⁸ As noted by CADE in its overview of the market, acquirers, especially those focusing on credit cards, experienced a relevant change in shares (CADE, 2019).

¹⁹ The Colombian Nubank, the Brazilian PicPay and PagSeguro, and the Argentine Mercado Pago are examples of entrants that established themselves in the payments market and have become prominent players in the financial sector. They now offer a wide range of services, including accounts, investment products, credit, and many of the activities traditionally provided by established financial institutions.

²⁰ According to the IDB/Finnovista (2024, p. 172), a significant proportion of Fintechs in these three countries focus on individuals with no or limited access to banking services: approximately 40% in Colombia, 35% in Peru, and 31% in Mexico.

²¹ See: <https://www.reuters.com/article/idUSKBN1CT32W/>

²² See: <https://newsroom.paypal-corp.com/expanding-paypal-small-business-lending-to-merchants-in-mexico> <https://www.pymnts.com/facebook/2019/facebook-teams-with-mexico-smb-alternative-lender-konfio/>

²³ <https://www.spglobal.com/marketintelligence/en/news-insights/trending/aivfglil7dkidexqexd0nq2>

²⁴ Authors have raised concerns. Notably, Padilla and de la Mano (2018) point out that big tech may end up monopolising the market.

²⁵ This movement aligns with the OECD's Recommendation on Competition Assessment, adopted on 11 December 2019, which advises member and non-member countries to identify and revise public policies that unduly restrict competition. Governments are encouraged to establish clear criteria for assessing the competitive impact of policies, focusing on those that limit market participation, restrict competitive behaviour, or reduce consumer choice. It also stresses that exceptions to competition law should be narrowly defined and time-limited. Additionally, competition assessment should be integrated early on in the policymaking process, with input from competition experts. See: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0455>

²⁶ As an example, it is worth mentioning information from the Chilean antitrust authority that reveals a significant process of concentration in the credit market over the two decades preceding the outbreak of the 2007-2009 global financial crisis: in 1990, the HHI index was 861 and the sum of the shares of the four largest players was less than 50%; in 2009, these figures rose to 1,341 and 67.6% (OECD, 2010). Due to domestic and international reasons, this consolidation movement has also been seen in other important countries in the region, such as Brazil (AZEVEDO & GARTNER, 2020) and Colombia (Contreras Cuervo, 2012) during the 2000's, and forms part of a landscape of restrictions on the deepening of competition,

alongside factors such as high switching costs, information asymmetries, network externalities and portfolio effects, enhanced by financial services bundling and tying.

²⁷ Payments comprise various activities. Traditional payment schemes are established by card brands such as Visa and MasterCard. Card issuance is traditionally handled by banks, which mediate the relationship between the scheme and the cardholder. Merchant acquiring is the activity of enabling businesses to accept card payments. Thus, an acquirer is an institution that allows merchants to accept card payments. It serves as the communication bridge between the merchant and the card brands. More recent developments in payments, notably by way of instant payments, have been changing this landscape, but this traditional operation of the market is still prevalent in many jurisdictions.

²⁸ For example, there has been a complaint to the CNDC, Argentina's competition authority, against the digital wallet MODO, operated by the country's major banks (Galicia, Santander, BBVA, ICBC, Macro, Patagonia, Supervielle, Itaú, and HSBC). The accusation is that these banks have been engaging in coordinated exclusionary practices against Fintechs. In October 2018, Cofece, Mexico's competition authority, launched an investigation into the card payment processing market. The identification of significant entry barriers associated with practices of dominant players led the authority to issue a series of determinations and recommendations at the end of 2023. In 2020, Cade, the Brazilian competition authority, reached an agreement with Bradesco as part of an investigation, whereby the bank committed to cease restrictive practices against the Fintech Guia Bolso that impeded access to shared customer data.

²⁹ In 2021, the OECD Council introduced the Recommendation on Competitive Neutrality, outlining principles to ensure that government actions do not favour certain enterprises over others, regardless of ownership, location, or legal form, thereby maintaining a level playing field. This aims to prevent any undue restriction, distortion, or hindrance of competition. More recently, the Competitive Neutrality Toolkit (OECD, 2024) has expanded on this by addressing the legal framework, including competition law, regulatory environments, and public procurement, as well as measures that may boost a competitor's performance, such as state support and public service compensation. It offers good practice guidelines based on international experiences from both OECD members and non-members, along with a Competitive Neutrality Checklist and an analytical framework.

³⁰ In its fourth chapter, the Digital Disruption in Banking and its Impact on Competition (OECD, 2020a) discusses what the role of regulation should be in the current scenario: whether it should only guarantee a level playing field between incumbents and entrants or whether it should actually favour entrants in order to promote competition. In this context, the broadening of regulators' competences to include competition-related objectives is discussed, mentioning examples of initiatives adopted in various countries to promote competition by reducing transaction costs and guaranteeing access to customer information by non-banking institutions. Among these cases, the document highlights the Fintech Law approved in 2018 by Mexico, which innovatively introduces new models to ensure that third parties can access data upon payment of fees previously approved by the regulator. The document concludes that the role of regulation goes beyond the task of creating conditions for the ongoing development of innovation and competition, and is also forward-looking. Faced with the risk that markets currently oligopolised by large financial institutions will, over time, become dominated by a few technology companies, the agenda of reducing transaction costs through the ownership and portability of personal data and interoperability between platforms from different providers is seen as crucial to ensure sufficiently competitive markets in the future. This last point will be revisited and explored in greater depth in the next chapter of this document.

³¹ As previously noted by OECD (2024, p. 39-40): "While the Recommendation calls for competitive neutrality in the regulatory environment, it recognises that 'achieving public policy objectives will in certain

circumstances require exceptions to competitive neutrality'. Exempting certain players from regulations may be necessary to achieve policy objectives that could not be accomplished through other means. For instance, as market players launch new products and services, it may take time to consider whether new regulations are needed and if so, to design them. In these cases, policy makers may grant temporary exceptions from regulation. Good practices show that distortions are limited by ensuring that the exceptions are transparent, duly justified and narrowly applied. Transparency means ensuring that all market participants are informed about them and their rationale. When exceptions are adopted in a transparent way and are publicly known, this can allow for open discussion on the merits of the exception, and for objections and alternative proposals to be put forward and considered.”

³² Article 16 of such resolution determines which services would be subject to the new rules: payment products and money storage, such as automated savings, mobile payments and credit card payments via API, among others; products within banking institutions, such as the opening of bank accounts through new technologies, the use of freely available statistical data for financial purposes, Fintech connection platforms and risk management solutions, among others; new business models, as well as the integration of social networks-payments-finance-retail sales and banking as a service. In addition, the resolution created a series of obligations, including conditions for Fintechs operational structure and rules on which information shall be handed over when required by the regulator. It also determines that SUDEBAN must authorise any ITFB to operate in the market, and so must the Superior Body of the National Financial System.

³³ Conversely, Bolivia and Ecuador have opted to ban the use and trading of cryptocurrencies altogether, citing concerns over financial stability and consumer protection.

³⁴ Examples include the 2006 Report on the Payment Card Industry, prepared by the Central Bank of Brazil, the Secretariat for Economic Monitoring of the Ministry of Finance, and the Secretariat for Economic Law of the Ministry of Justice (https://www.bcb.gov.br/content/estabilidadefinanceira/Documents/sistema_pagamentos_brasileiro/Publicacoes_SPB/Relatorio_Cartoes.pdf) and a more recent publication in the payment industry prepared by Cade's Department of Economic Studies (CADE, 2019).

³⁵ A prime example of this was mentioned in a recent OECD publication on competitive neutrality: “In Brazil, taxes could only be paid to the Federal Revenue Office through financial institutions. Other payment institutions, such as Fintechs, were prevented from providing such services, which compelled customers from these institutions to also have an account in a traditional bank to pay their taxes. In order to ensure a level playing field among all financial institutions, Fintechs were authorised to be part of the federal tax collection network since 2020, following an initiative by the Secretariat of Competition Advocacy and Competitiveness” (OECD, 2024, p. 39).

³⁶ Pleno Opinión Cofece 007-2017: <https://www.cofece.mx/CFCRResoluciones/docs/Opiniones/V20/6/3953499.pdf://repositorio.indecopi.gob.pe/handle/11724/8532>.

³⁷ Between 2020 and 2022, a series of sub-legal norms were issued by the BCRA, enhancing the regulation in the payments sector. Examples include: (i) Communication A 6859 of January 2020, regulating the figure of payment services providers (PSP), allowing non-banking entities to offer payment accounts and related services; (ii) Communications A 6885, 6948, and 7153, which among other things regulate financial operations and establish mandatory interoperability between QR Codes used for payment; (iii) Communication A 7236, establishing norms applicable to digital wallet activities; and (iv) Communication

A 7514 of May 2022 introduced measures to enhance the operation of the electronic payment system, expanding the capabilities of digital wallets.

³⁸ It is worth mentioning that Open Banking exists in several countries without regulatory intervention, and there is no hierarchy among the different approaches (OECD, 2023b). As will be described later, in the case of Argentina, for example, the agenda appears to be market-driven. However, in the LAC context, there is a clear predominance of state regulators in driving this type of initiative, which is why this approach has been given greater emphasis in this document.

³⁹ Reports include those released by British authorities (Competition and Markets Authority), "Unlocking Digital Competition: Report from the Digital Competition Expert Panel"; French authorities (Autorité de la Concurrence) and German authorities (Bundeskartellamt), "Competition Law and Data"; Japanese authorities (Japan Fair Trade Commission), "Interim Report Regarding Trade Practices on Digital Platforms"; Australian authorities (Australian Competition & Consumer Commission), "Digital Platforms Inquiry"; European authorities (European Commission Directorate-General for Competition), "Competition Policy for the Digital Era"; and the OECD, "Big Data: Bringing Competition Policy to the Digital Era."

⁴⁰ As noted in a previous OECD paper (2020b, p. 40): "For example, the data can be an input into credit risk assessment, e.g. to compute credit scores, and price risk more accurately. By sharing data more widely beyond the perimeter of the customer bank, and allowing it to be aggregated and analysed, through big data analysis tools including artificial intelligence, credit risk assessments are likely to become more effective".

⁴¹ For more on the UK's experience, see [UK Fintech: Moving mountains and moving mainstream, <https://www.cityoflondon.gov.uk/assets/Business/uk-Fintech-moving-mountains-and-moving-mainstream.pdf>].

⁴² The American version of open finance has evolved incrementally as a private arrangement. Banks have independently opened channels for third parties to access their APIs, based on individual agreements governed by contracts that delineate the responsibilities between the involved parties. In this model, regulation plays a less direct role in defining data-sharing standards. Instead, contracts cover various elements, from the technical design of the APIs to principles of non-discriminatory access (Pandy, 2020).

⁴³ Dominican Republic has explicitly expressed interest in developing and adopting Open Banking (or Banca Abierta) rules. In 2022, the country unveiled that it signed an agreement with the IFC for development of a pilot. Currently, the Bank Superintendency lists this project as part of its 2024 priorities for the fourth quarter, with the aim of "promoting the creation of simple, fast, and personalised financial products and services, according to the needs of users by means of new channels and technology". That project walks alongside efforts on portability, which are also a priority for 2024 and focus on promoting competition and on developing standards so that institutions can properly implement information exchange in a way that benefits consumers.

⁴⁴ In this regard, a previous OECD document (2020b, p. 42) explains the following: "One additional issue is whether regulation should aim at establishing a level playing field and what a level playing field means when different activities may entail different levels of risk. In this context, one controversial issue continues to be that of so-called reciprocity, by which banking sector representatives mean that there might be an asymmetry in the requirements for data sharing across entities from different sectors, including banking sector on one side and the information technology sector on the other. PSD2, the argument goes, has created a particularly demanding regime of data access from banks by obliging them to provide payment

data to non-banks, without allowing the former to charge for it. By contrast, similar requirements for (large) information technology to make their own core customer data shareable with third parties including banks does not exist. Note however that many public initiatives to encourage greater data sharing might have focused initially on specific financial services, but are not meant to be limited to these”.

⁴⁵ Law 1266, published on December 31, 2008
<https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=34488>

⁴⁶ Available at:
www.cmfchile.cl/institucional/legislacion_normativa/normativa_tramite_ver_archivo.php?id=2024041585&seq=1

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