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

**- Contribution from Peru -**

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

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## Session I: Competition, Fintechs and Open Banking

### – Contribution from Peru<sup>1</sup> –

1. The digitization of financial services has revolutionized the financial sector in Peru, driving significant advancements in innovation, efficiency, and financial inclusion. This transformation has introduced new players, notably fintech companies, which offer a diverse range of services traditionally provided by conventional financial institutions. The rapid growth and consolidation of fintech firms, alongside the integration of digital technologies by traditional banks, have created a dynamic and competitive financial ecosystem. As *fintechs* continue to evolve, they face a complex regulatory landscape, prompting the need for a robust legal framework that ensures consumer protection, competition, and the prevention of illicit activities. This text explores the contributions of Peru in the realm of competition, *fintechs*, and open banking, highlighting key regulatory developments, market dynamics, and measures to promote and safeguard competitive practices within the financial sector.

#### 1. Digitalization of financial sector

2. In Peru, leveraging digital technologies for the provision of financial services has yielded various benefits, including reduced transaction costs, minimized information asymmetries, improved user experiences through innovation, and enhanced financial inclusion for underserved populations. Consequently, the financial services market has become more dynamic, allowing the entry of new participants such as *fintech* companies. These companies have developed and introduced innovative solutions for payments, digital wallets, insurances, currency exchange, loans, factoring, and more—services traditionally provided mainly by the conventional financial sector. Furthermore, due to their disruptive nature, *fintech* companies are also venturing into providing financial services through novel business models such as crowdfunding, crypto-assets or cryptocurrencies, wealth management, and Fintech as a Service, among others.

3. In this context, *fintech* companies have been growing significantly. In 2023, the number of *fintech* companies grew by 24%, reaching a total of 203 companies. In some segments of financial services, *fintech* companies have begun to consolidate their offerings, surpassing those of traditional financial institutions. The banking sector has responded by incorporating *fintech* solutions based on emerging technologies to offer more sophisticated services tailored to users' needs, and in some cases, forming alliances with *fintech* companies. For instance, in May 2024, the *fintech* company Maximo and Banco Alfin introduced a savings account using a Banking as a Service (BaaS) model<sup>2</sup>.

4. Peru is also one of the South American countries where the use of digital wallets is quite significant in the low-value payments segment. This development has been

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<sup>1</sup> Contribution from the National Directorate for the Investigation and Promotion of Free Competition of Indecopi.

<sup>2</sup> In this regard, see: <https://iupana.com/2024/05/10/banco-alfin-y-fintech-maximo-lanzan-cuenta/>

significantly influenced by the startup “Yape”<sup>3</sup> from Banco de Crédito del Perú (BCP), the leading bank in Peru, which boasts over 16 million users. Initially, in 2017, Yape operated solely as a digital wallet for making and receiving payments but has expanded in recent years to offer additional financial services such as loans, currency exchange, remittances, and a marketplace. Meanwhile, major *fintech* startups have specialized in loan services, currency exchange, and factoring, with notable companies including Prestamype, Creditea, Credijusto, Apurata, Cambio Seguro, Kambista, Rextie<sup>4</sup>, Facturedo, and Finsmart, among others<sup>5</sup>.

## 2. Evolution of legal framework

5. While Peru does not yet have specific regulations for *fintech* companies, the applicable legal framework includes various provisions issued by entities overseeing the securities market, payment systems, and the financial system in the country. One of the first initiatives on this subject came from the Superintendencia del Mercado de Valores (SMV)<sup>6</sup>, which in May 2021 published the “Regulations for the Financial Participatory Financing Activity and its Management Companies”<sup>7</sup>. These regulations established the requirements and procedures for obtaining authorization as a management company for financial participatory financing platforms, thus allowing a *fintech* to conduct crowdfunding activities.

6. In August 2021, the Superintendencia de Banca, Seguros y AFP (SBS)<sup>8</sup> issued the “Regulations for the Temporary Development of Activities through Novel Models”<sup>9</sup>, enabling a *fintech*, in partnership with an SBS-supervised entity, to participate in regulatory sandbox pilot tests if they presented an innovative project or solution. In March 2022, the SBS published Legislative Decree No. 1531, which amended the General Law of the Financial System<sup>10</sup>, allowing financial institutions to conduct authorized operations and required publications digitally. This enabled, for example, digital banks to operate in the

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<sup>3</sup> In this regard, see: <https://www.yape.com.pe/>

<sup>4</sup> For example, Rextie, a currency exchange *fintech*, received a strategic investment from Citi in 2023 to strengthen its development. See: <https://www.rextie.com/blog/citi-realiza-una-inversion-estrategica-en-rextie-la-fintech-de-cambio-de-moneda-lider-del-peru/>

<sup>5</sup> See: Cambio Seguro. (n.d.). Las 10 fintech peruanas más destacadas de este año (The 10 most notable Peruvian fintechs this year). <https://cambioseguro.com/articulos/las-10-fintech-peruanas-mas-destacadas-de-este-ano>; Rextie (December 17, 2023). Oportunidades y retos de las empresas fintech en el Perú para el 2024 (Opportunities and challenges of fintech companies in Peru for 2024). <https://www.rextie.com/blog/oportunidades-de-las-fintech-en-peru/>

<sup>6</sup> The SMV is a specialized technical agency, affiliated with the Ministry of Economy and Finance (MEF) of Peru. Its purpose is to ensure the protection of investors, the efficiency and transparency of the markets under its supervision, the accurate formation of prices, and the dissemination of all necessary information for these purposes.

<sup>7</sup> Available at: <https://bit.ly/46j7zZp>

<sup>8</sup> The SBS is a constitutionally autonomous public entity whose objective is to protect the public’s interests by ensuring the stability, solvency, and transparency of the supervised systems. It is also responsible for promoting greater financial inclusion and contributing to the system for the prevention and detection of money laundering and terrorist financing.

<sup>9</sup> Available at: <https://busquedas.elperuano.pe/dispositivo/NL/1983647-1>

<sup>10</sup> Available at: <https://busquedas.elperuano.pe/dispositivo/NL/2049959-1>

country. Later, in October 2022, the Central Reserve Bank of Peru (BCRP)<sup>11</sup> published the “Regulations on Interoperability of Payment Services Provided by Providers, Agreements, and Payment Systems”<sup>12</sup> and its corresponding amendment in July 2023<sup>13</sup>, specifying that with the implementation of Phase 4, currently under development, *fintech* companies could interoperate with other financial institutions.

7. Regarding the establishment of a specific regulatory framework for open banking, it is worth noting that there is not yet a law on this subject. However, the interest in establishing a regulatory framework for data and banking services exchange through Application Programming Interfaces (APIs) was expressed through a legislative initiative presented in April 2022<sup>14</sup>. Furthermore, in May 2022, the SBS announced that it would work with the BCRP to develop a roadmap for the advancement and future implementation of open banking in the country<sup>15</sup>. This was confirmed by the BCRP in an April 2024 publication<sup>16</sup>, stating that it was working with the SBS and the World Bank on an agenda and roadmap for the progressive implementation of open banking in Peru. They are also evaluating legal and technical aspects related to implementing a retail payment platform with open API architecture to facilitate payment initiation and the incorporation of new participants.

8. Additionally, *fintech* companies in Peru, like any private company, must comply with personal data protection regulations issued by the National Data Protection Authority (ANPD)<sup>17</sup>. The nature of *fintech* activities and their presence in various sectors necessitate close coordination between different regulators. To date, the various regulatory interventions developed have been based on joint work and coordination among the relevant public entities<sup>18</sup>.

9. Finally, according to the SBS (2022)<sup>19</sup>, the regulatory development of *fintech* activities varies depending on the jurisdiction and business model. Some are regulated by financial authorities, while others fall under the purview of consumer protection and competition authorities such as Indecopi; and in the case of money laundering and terrorist financing prevention, by the Financial Intelligence Unit (UIF-Peru). For example, activities

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<sup>11</sup> The BCRP is a constitutionally autonomous public entity responsible for preserving monetary stability within the country. Since 1997, it has been leading the modernization of payment systems in Peru, with the aim of strengthening their security and efficiency and coordinating changes with the financial system.

<sup>12</sup> Available at: <https://bit.ly/4d4ZeL4>

<sup>13</sup> Available at: <https://bit.ly/4cK8vIQ>

<sup>14</sup> In this regard, see: <https://bit.ly/3zOxWKG>

<sup>15</sup> In this regard, see: <https://bit.ly/3Y9piAA>

<sup>16</sup> In this regard, see: <https://bit.ly/4bOK37N>

<sup>17</sup> The ANPD, an entity affiliated with the Ministry of Justice and Human Rights of Peru, is responsible for enforcing and ensuring compliance with the current regulations on personal data protection in Peru.

<sup>18</sup> For example, the Electronic Money Law (Law No. 29985), which regulates the issuance of electronic money and establishes the entities authorized to issue it, was developed in coordination with the MEF, SBS, BCRP, the telecommunications regulator, and with the participation of the private sector.

<sup>19</sup> SBS. (2022). *Ecosistema Fintech: promoviendo la innovación para contar con sistemas supervisados sostenibles e inclusivos*. <https://www.sbs.gob.pe/Portals/0/Archivos/2022/Ecosistema%20Fintech-2022.06.02.pdf>

like digital banking must comply with the same requirements as traditional banking, following the principle of technological neutrality. However, the technology used must be considered in risk management and supervision. In the case of credit platforms, there is no international consensus on regulation, as they do not involve public deposit intermediation. Regulatory developments for electronic money and participatory financing are more recent, with specific regulators depending on the case. Consumer protection, competition, and money laundering prevention regulations apply to all fintech models as shown in Table 1.

**Table 2.1. Main risks and regulators according to type of Fintech business model**

Business models	Risks								Regulators involved according to international experience*						
	Credit	Market	Liquidity	Operational	Cybersecurity	ML/TF	Insurance	Consumer	Finance system	Insurance	Values	Payment system	Financial intelligence	Consumer protection	Market competition
Digital banking															
Crowdfunding loans															
Credit platforms															
Crowdfunding in securities															
Robo advise															
Electronic money**															
Digital payments															
InsurTech															

Legend:

Presence of risk; regulator is involved; there is consensus on regulatory intervention

\* Based on Finnovista (2021) and Ehrentraud (2020a, 2020b).

\*\* Regulation may be in charge of the financial system regulator or the payment system regulator.

Taken from: SBS. (2022). *Ecosistema Fintech: promoviendo la innovación para contar con sistemas supervisados sostenibles e inclusivos*. <https://www.sbs.gob.pe/Portals/0/Archivos/2022/Ecosistema%20Fintech-2022.06.02.pdf>

### 3. Competition enforcement responses

10. The digitization of financial services has brought real and potential new challenges for the competition authority in the country, such as defining the relevant market when dealing with multi-sided markets (digital platforms), the existence of new forms of collusion (cartels), and analysing effects in cases of abuse of dominant position and mergers.

11. In this vein, in December 2023, a currency exchange *fintech* filed a complaint with Indecopi against a leading bank in the Peruvian market for allegedly unjustifiably closing its current accounts and refusing to open a new one. In the first administrative instance, Indecopi decided not to initiate an investigation as the accused bank did not hold a dominant position in the upstream market (current accounts), and the complaining *fintech* had other banking options to open current accounts to offer its currency exchange services. However, this decision was recently appealed by the complaining *fintech* and is currently in the second administrative instance.

12. Regarding mergers, to date, no request for review of a business concentration operation involving a *fintech* startup or in the field of open banking has been received. However, in April 2022, a transaction in the card payment processing segment was reviewed, involving the sale of 50% of Scotiabank Peru's stake in Procesos de Medios de Pago (PMP) to Intercorp Financial Services (IFS), which was approved.<sup>20</sup>

#### 4. Competition advocacy actions

13. Regarding competition promotion activities, in September 2023, Indecopi published the final report of the Fintech Market Study in Peru (hereinafter the market study)<sup>21</sup>. As a result of the competition conditions analysis, several competition risks were identified in this sector, and recommendations were made to promote the entry and expansion of competitors and the development of novel digital models. The market study focused on currency exchange, loans, factoring, and digital wallets, as these jointly represented a significant share (64%) of fintech companies operating in the country in 2022.

14. One main issue addressed was some banks' decision not to open or close bank accounts for *fintech* companies. It was recommended that financial institutions evaluate money laundering and terrorist financing (ML/TF) risks based on a risk-based approach as suggested by the Financial Action Task Force (FATF) and consider publishing the conditions or requirements for opening and maintaining bank accounts. Similarly, the Peruvian Fintech Association was advised to develop guides on bank account opening procedures and ML/TF risk management.

15. Furthermore, the absence of an open banking or open finance model in the country was noted, leading to a recommendation for the SBS and BCRP to establish a framework for public and private stakeholder involvement as part of the agenda for implementing open banking or open finance in Peru.

16. Additionally, some regulatory aspects that could create disparities between *fintech* companies and their competitors in the traditional financial sector were highlighted, such as the access modality to the Electronic Clearing House (CCE) and the differentiated application of the General Sales Tax (IGV) on credit activities. The BCRP was recommended to evaluate if *fintech* companies could access the CCE indirectly through Electronic Money Issuers (EMI), and the Ministry of Economy and Finance (MEF) was advised to assess the relevance and timeliness of making a regulatory modification to exempt entities providing credit services, including *fintech* companies specialized in this activity, from IGV.

17. The market study was developed with the participation of the SBS and the UIF-Peru, the MEF, and the BCRP, as well as private entities such as banks, *fintech* companies, and specialists. The main channels of engagement with these stakeholders were interviews and information requests. The contributions of the SBS, the financial system supervisor, and the BCRP, the payment system regulator, were crucial for understanding various regulatory aspects applicable to *fintech* companies that might have limited their development or expansion in the Peruvian market.

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<sup>20</sup> In this regard, see: <https://masfinanzas.com.pe/pagos-digitales/intercorp-financial-services-adquirio-participacion-de-scotiabank-en-pmp-izipay/>

<sup>21</sup> Available at: <https://bit.ly/4bNW519>

18. Regarding the follow-up activities on the implementation of the various recommendations made by Indecopi in the final report of the market study, by June 2024, around 70% had been adopted and implemented by the public and private entities to which the study's recommendations were directed.

19. Since 2022, the National Directorate for the Investigation and Promotion of Free Competition of Indecopi has been participating with other public entities in various working groups, including the *Fintech Committee* as part of the National Financial Inclusion Policy (PNIF in Spanish), contributing to initiatives that favour the development of *fintech*, understanding the risks of these business models, and adopting good governance practices by these companies.

20. Finally, it is essential to highlight that Indecopi, as the competition authority, recognizes the opportunities and challenges arising from the increasing introduction of technological innovations in providing financial services in the Peruvian market. In this regard, it also considers it important to monitor the competitive dynamics in digital environments to identify any aspects that may restrict or limit competition and take measures to promote or restore it.